



Doc#: 1106316034 Fee: \$138.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/04/2011 01:52 PM Pg: 1 of 52

**This Instrument Prepared By and
After Recording Return To:**

**Gary M. Adelman, Esq.
2245 W. Huron Street
Chicago, Illinois 60612**

**Property Address: 2028 W. Division Street
Chicago, Illinois**

[SPACE ABOVE THIS LINE FOR RECORDER'S PURPOSES]

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND
EASEMENTS**

**THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS (this "Declaration") is made and entered into as of the 1st day of May, 2010 by
2028 30 West Division Properties LLC, an Illinois limited liability company ("Declarant").**

RECITALS:

- A. The terms used in the Recitals, if not otherwise defined in the Recitals, shall have the meanings set forth in **Article "1"** hereof
- B. Declarant is the record legal titleholder of the Total Property situated in Chicago, Cook County, Illinois, and legally described in **Exhibit "A"** hereto.
- C. Immediately prior to this Declaration having been recorded in the Office of the Recorder of Deeds of Cook County, Illinois (the **Recorder**). Declarant has recorded a Declaration of Condominium Ownership for 2028 West Division Condominium Association. The Residential Property to which the Declaration of Condominium Ownership is applicable shall be subject to this Declaration. The Residential Property shall then also be subject, to the provisions of the Condominium Property Act of the State of Illinois.
- D. After this Declaration is recorded as aforesaid, Declarant will convey the Commercial Property to a third party.

E. The Commercial Building and the Residential Building, as defined herein, are within one structure functionally dependent on the other and will share ingress and egress, utility services and certain other facilities and components necessary for the operation and use of the Commercial Building and the Residential Building.

F. Declarant desires by this Declaration to provide for the efficient operations of the Commercial Property and the Residential Property, to assure the harmonious relationship of the owners of each such Property; and to protect the respective values of each such Property, by providing for, declaring and creating certain easements, covenants and restrictions benefiting and burdening the Commercial Property and the Residential Property.

NOW THEREFORE, Declarant hereby declares that the Total Property and any part thereof is and shall be owned, held, mortgaged, transferred, assigned, sold, conveyed and accepted subject to this Declaration. Declarant does hereby further declare that this Declaration and each of the provisions, easements, covenants, conditions, restrictions, burdens, uses, privileges and charges set forth herein or created hereunder shall exist at all times hereafter amongst, and be binding upon and inure, to the extent provided herein, to the benefit of, all parties having or acquiring any right, title or interest in or to any portion of, or interest or estate in, the Total Property and each of the foregoing shall run with the land subjected to this Declaration.

Article I

Definitions

1.1 **"Act"** means the Condominium Property Act of the State of Illinois in effect on the date the Condominium Declaration is recorded, as amended from time to time.

1.2 **"Association"** means 2028 West Division Condominium Association, an Illinois not-for-profit corporation formed or to be formed for the purpose of administering the Residential Property pursuant to the Act.

1.3 **"Building"** means all improvements, including, but not limited to the footings, foundations, columns, piles, buildings, improvements, fixtures, equipment, machinery, facilities, sidewalks, walkways, driveways and landscaping now or hereafter located in, on, under, within or upon the Total Property, including all alterations; rebuilding, replacements and additions thereto.

1.4 **"Commercial Building"** means the portion of the Building located within the Commercial Property.

1.5 **"Commercial Easement Facilities"** means Facilities located in the Residential Property (A) primarily benefiting the Commercial Property or the Owner of the Commercial Property, or (B) necessary for the Owner of the Residential Property to perform its obligations under Section 6.1 of this Declaration.

1.6 **"Commercial Property"** means the portion of the Building to be occupied for

commercial purposes and described in **Exhibit "B"** attached hereto.

1.7 **"Common Elements"** means all portions of the Residential Property, except the Units.

1.8 **"Condominium Declaration"** means the Declaration of Condominium Ownership for 2028 West Division, By-Laws, and Rule and Regulations, for 2028 West Division Condominium Association, Inc., as the same may be amended from time to time.

1.9 **"Creditor Owner"** except where otherwise defined hereunder in a specific context, means the Owner to whom a payment of money or other duty or obligation is owed under this Declaration by the other Owner who has failed to make such payment or to perform such duty or obligation as and when required hereunder.

1.10 **"Declarant"** has the meaning set forth in the preamble hereof

1.11 **"Declaration"** means this Declaration of Covenants, Conditions, Restrictions and Easements dated as of the 1st day of May, 2010, including all exhibits, appendices, amendments and supplements thereto.

1.12 **"Defaulting Owner"** except where otherwise defined hereunder in a specific context, means the Owner who has failed to make a payment of money owed under this Declaration to the other Owner, or has failed to perform any of its duties or obligations as and when required under this Declaration.

1.13 **"Easements"** means all easements provided for, declared or created pursuant to or in accordance with the terms and provisions of this Declaration.

1.14 **"Emergency Situation"** means (a) a situation impairing or imminently likely to impair structural support or Facilities of the Building; or (b) a situation causing or imminently likely to cause bodily injury to person or substantial physical damage to all or any portion of the Building, or any property within or about the Building; or (c) a situation causing or imminently likely to cause substantial economic loss to the Owner of the Commercial Property; or (d) a situation which materially interferes with the beneficial use of any Owner of its respective portion of the Building. The duration of an Emergency Situation shall be deemed to include the time reasonably necessary to remedy the Emergency Situation.

1.15 **"Facilities"** means all components, and any replacements or substitutions for transmission, domestic water, the HVAC Equipment (as defined in Section 4.1 (I) below) fire suppression, sanitary water, storm water, electrical, gas, cable, DSL, telephone, fire alarm and other communication equipment, lighting protection, utility or any other services to any portion of the Building.

1.16 **"First Residential Mortgage"** means the first mortgage or first trust deed in the nature of a mortgage, and all amendments, supplements and extensions thereto, on the Residential Property or any part thereof made by Declarant. The First Residential Mortgage does not include a first

mortgage or first trust deed in the nature of a mortgage on a Unit made by a Unit Owner other than Declarant.

1.17 **"First Mortgage"** means the First Commercial Mortgage or the First Residential Mortgage, as the context requires. **"First Mortgages"** means the First Commercial Mortgage and the First Residential Mortgage collectively.

1.18 **"Maintenance"** means and includes operation, maintenance, repair, reconditioning, refurbishing, reconfiguration, inspection, testing, cleaning, snow removal, painting, installation and replacement when necessary or desirable of Facilities (except repair and restoration required under Sections 10.2 and 10.3 hereof), and includes the right of access to and the right to remove from the Building portions of such Facilities for any of the above purposes, subject, however, to any limitations set forth elsewhere in this Declaration.

1.19 **"Owner of the Commercial Property"** means the person or persons or entity or entities whose estates or interests, individually or collectively, aggregate, at any point in time, fee simple ownership of the Commercial Property.

1.20 **"Owner of the Residential Property"** means the person or persons or entity or entities whose estates or interests, individually or collectively, aggregate, at any point in time, fee simple ownership of the Residential Property. If, and so long as, the Residential Property has been submitted to and remains subject to the provisions of the Act, the Owner of the Residential Property shall mean all of the Unit Owners of the Association collectively, and not individually.

1.21 **"Owner"** means the Owner of the Commercial Property or the Owner of the Residential Property, as the context requires. **"Owners"** means the Owner of the Commercial Property and the Owner of the Residential Property. Wherever the word "Owner" appears herein and such word is not capitalized, it shall mean any owner of any portion of the Total Property.

1.22 **"Parking Garage"** means the garage portion of the Building designated or used for parking automobiles and/or motorcycles, and includes the garage ramp.

1.23 **"Plans"** means those architectural and engineering drawings and specifications used for the original construction. The Plans are not "as-built" plans and may be changed or supplemented as construction continues after the date this Declaration is recorded. Therefore, the Plans do not necessarily reflect the exact dimensions or location of each component in or about the Building.

1.24 **"Residential Building"** means the portion of the Building located within the Residential Property.

1.25 **"Residential Easement Facilities"** means Facilities located in the Commercial Property (A) primarily benefiting the Residential Property or the Owner of the Residential Property or, (B) necessary for the Owner of the Residential Property to perform its obligations under Section 6.2 of this Declaration.

1.26 **"Residential Property"** means the real estate legally described in Exhibit "C".

1.27 **"Unit"** means a part of the Residential Property described as a "Unit" in the Condominium Declaration.

1.28 **"Unit Owner"** means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit Ownership in the Association.

1.29 **"Unit Ownership"** means a part of the Residential Property consisting of one Unit and the individual interest in the Common Elements attributable thereto.

Article II Easements Benefiting the

Residential Property

2.1 The following perpetual easements burdening the Commercial Property and benefiting the Residential Property are hereby declared and created.

(A) A non-exclusive easement in and to all structural members, footings, caissons, foundations, columns and beams and any other supporting components located within or constituting a part of the Commercial Property for the support of: (i) the Residential Building; and (ii) any Facilities located within the Commercial Property with respect to which the Owner of the Residential Property is granted an easement under this Declaration.

(B) A non-exclusive easement for the intended use and purposes of all Facilities at any time located in the Commercial Property and connected to the Facilities at any time located in the Residential Property (and any replacements thereof), which provide or shall be necessary to provide the Residential Property with any utilities or other services, or which may otherwise be necessary to the operation of the Residential Property.

(C) An exclusive easement to maintain encroachments in the event and to the extent that, by reason of the original construction of the Building, any reconstruction thereof, minor surveying errors, or the subsequent settlement or shifting of any part of the Building, any part of the Residential Building encroaches or shall hereafter encroach upon any part of the Commercial Property. Such easements to maintain encroachments shall exist only as long as the encroaching portion of the Building continues to exist. In no event shall an easement for any encroachment be created in favor of the Residential Property if such encroachment unreasonably interferes with the reasonable use and enjoyment of the Commercial Property by the Owner of the Commercial Property.

(D) An exclusive easement for the Maintenance of Residential Easement Facilities.

(E) A non-exclusive easement over, on, across and through the Commercial Property to the extent reasonably necessary: (i) to permit the maintenance, repair, replacement, restoration or reconstruction of the Residential Property as required or permitted pursuant to this Declaration;

or (ii) during an Emergency Situation; or (iii) to construct and maintain substitute or additional structural support required by Article "V" hereof.

(F) A non-exclusive easement for the use of any facade cleaning and repair platform and related equipment located on the roof of the Building for the purpose of cleaning the exterior windows and facade of the Residential Building, or any portion thereof, and maintaining, repairing and replacing the exterior of the Residential Building (including facade, walls, windows, screens and the like).

2.2 Each Easement created under this Article for ingress and egress on, over, across or through the Commercial Property shall be subject (except in an Emergency Situation) to such reasonable limitations as the Owner of the Commercial Property may, from time to time impose for limited paths of ingress and egress and limited hours of the day or days of the week to prevent any unreasonable interference with the use and operation of the Commercial Building, and to assure the reasonable security of the Commercial Building; provided, however, that any such limitations shall not preclude or unreasonably restrict enjoyment or exercise of any such Easement.

2.3 Easements provided for, declared or created under Section 2.1 shall be binding upon the Commercial Property and the Owner of the Commercial Property, and all such Easements shall run in favor of and inure to the benefit of and be appurtenant to the Residential Property.

2.4 The Owner of the Commercial Property shall have the right, at its sole cost and expense, to relocate within its Property any Facilities and Easements which burden its Property and benefit the Residential Property, other than Easements declared or created under Sections 2.1(A), 2.1(C), and 2.1(D) so long as such relocation does not have a material adverse effect on the use and operation of the Residential Property.

Article III

Association Acting for Unit Owners

So long as the Residential Property is subject to the provisions of the Act, all rights, Easements and benefits under this Declaration appurtenant to or enjoyed by the Residential Property shall be exercised by the Association on behalf of the Unit Owners, except for such rights or benefits expressly granted to Unit Owners, and except for Easements which by their nature are exercisable only by Unit Owners. Any action to enforce rights, obligations, Easements, burdens and benefits under this Declaration on behalf of the Unit Owners or the Association shall be taken solely by its duly authorized directors and officers acting pursuant to authority granted by law, the Condominium Declaration or resolution of the Board of Directors of the Residential Property.

Article IV Easements Benefiting the

Commercial Property

4.1 The following perpetual easements burdening the Residential Property and benefiting the Commercial Property are hereby declared and created:

(A) A non-exclusive easement in and to the maintenance and use for their intended purposes of all structural members, columns and beams, and any other supporting components located in or constituting a part of the Residential Property for the support of (i) the Commercial Building, and (ii) any Facilities located in the Residential Property with respect to which the Owner of the Commercial Property is granted an easement under this Declaration.

(B) A non-exclusive easement for the use for their intended purposes of all Facilities which are at any time located in the Residential Property and connected to the Facilities at any time located in the Commercial Property (and any replacements thereof), which provide or shall be necessary to provide the Commercial Property with any utilities or other services, or which may otherwise be necessary to the operation of the Commercial Property.

(C) An exclusive easement to maintain encroachments in the event and to the extent that, by reason of the original construction of the Building, any reconstruction thereof, minor surveying errors, or the subsequent settlement or shifting of any part of the Building, any part of the Commercial Property encroaches or shall hereafter encroach upon any part of the Residential Property. Such easement to maintain encroachments shall exist only as long as the encroaching portion of the Building continues to exist. In no event shall an easement for any encroachment be created in favor of the Commercial Property if such encroachment unreasonably interferes with the reasonable use and enjoyment of the Residential Property by the Owner of the Residential Property.

(D) An exclusive easement for the use of the exterior facade of the Residential Building that faces Division Street for the purpose of attaching to such facade exterior, mounted identification signage for the tenant from time to time of the Commercial Property; provided, however, (i) such signage is in full compliance with applicable City codes and ordinances, (ii) the Owner of the Commercial Property obtains, or causes the applicable tenant of the Commercial Property to obtain, all required governmental approvals and permits for such signage, (iii) such signage may not contain any flashing or neon components, or any content or images of a lewd or lascivious nature, (iv) the Owner of the Commercial Property shall hold harmless and indemnify the Owner of the Residential Property from any and all damages that is caused by such installation, (v) the owner of the Commercial Property shall maintain and cause to be maintained such signage so that the same is kept in a clean and attractive condition and in good repair, (vi) such signage shall be mounted such that the sign panel is positioned below the horizontal plane that separates the exterior facade of the Residential Property from the upper plane of the Commercial Property, and (vii) such signage shall not hang below a horizontal plane that is parallel to and nine (9) feet above the sidewalk along Division Street that is adjacent to the Commercial Property

(E) A non-exclusive easement for one trash storage container and ingress and egress by persons and vehicles for delivery and removal of said trash container in the portion of the Total Property designated for trash storage containers.

(F) A non-exclusive easement over, on, across and through the Residential Property to the extent reasonably necessary (i) to permit the maintenance, repair, replacement, restoration, construction and/or reconstruction of the Commercial Property as required or permitted pursuant to this Declaration, or (ii) during an Emergency Situation; or, (iii) to construct and maintain substitute or additional structural support required by **Article "V"** hereof, or (iii) to access and use the Commercial Property for its intended purpose.

(G) A non-exclusive easement for the use of the exterior of the South wall of the enclosure for the stairway that leads to the roof of the Building, where such wall extends above the roof of the Building, for the installation, use and maintenance of antennae, satellite dishes and other communication devices and equipment used from time to time by the Commercial Property Owner and its tenants, for the exclusive benefit of the Commercial Property, and a non exclusive easement on, across, over and through those portions of the Residential Property (other than the Condominium Units) for the installation, use, operation and maintenance of wires, cables and conduits connecting such antennae, satellite dishes and other connecting devices and equipment to the Commercial Property. Each antennae, satellite dish and communication device and equipment shall be of dimensions and area that comply with Federal Telecommunications law and regulations and shall be installed in accordance with all laws. The Commercial Property Owner's use of such items shall not interfere with other receptions from or transmission to other Facilities on the roof, including, without limitation, antenna, satellite dishes and other communication devices and equipment of the Residential Property Owners located on such roof. The Owners will work together to cooperate in good faith to achieve the mutual best interest of all Owners regarding this Easement.

(H) An exclusive easement for the use of that portion of the roof of the Residential Building for the installation, use, operation and maintenance by the Commercial Property Owner and its tenants, for the exclusive benefit of the Commercial Property, of not more than one (1) heating, ventilating and air conditioning compressor units and related fixtures and appurtenances ("HVAC Equipment"). A non-exclusive easement for (i) the installation, use and maintenance of ducts, vents, and air conditioning and heating equipment, fixtures and appurtenances, including, without limitation, conduit, cables and wires, within the Residential Property (other than the Condominium Units); and (ii) the use of such ducts, vents, equipment, fixtures and appurtenances, including conduit, cables and wires for the use and operation of the HVAC Equipment and to carry exhaust air from the Commercial Property to the roof of the Residential Building.

(I) A non-exclusive easement for the maintenance on the first floor of the Residential Property, for the use and benefit of the Commercial Property, electrical panels, low voltage panels, and utility meters (including for electric, gas and water service to the Commercial Property), together with ingress and egress on, over and across the Residential Property (not including the Condominium Units) for purposes of installing, maintaining, repairing,

replacing, using, operating and reading, as applicable, all of the foregoing equipment and installations, along with any and all fixtures and appurtenances (including cables and wires) necessary to the operation thereof or which are related thereto; provided, however, the Owner of the Commercial Property covenants and agrees, for itself and the tenants from time to time of the Commercial Property, that, in the exercise of its rights under this Section 4. UP, it covenants and agrees not to unreasonably interfere with the use of the first floor of the Residential Property for its intended purposes by the Owner of the Residential Property.

[END OF PAGE]

(J) An exclusive easement for the installation, maintenance, use and operation of a chase for black iron from the Commercial Property through the Residential Property (not including the Condominium Units) to and through the garage of the Residential Building, with the right to vent such chase through the North wall of the Residential Property to the public alley that is immediately adjacent to the Residential Property on its North side. With respect to the exercise of the rights granted to it in the proceeding sentence, the Owner of the Commercial Property covenants and agrees (i) that once any such installation work is commenced, it will use commercially reasonable efforts to cause the same to be diligently prosecuted so that the work is completed at the earliest practicable date, and (ii) to use commercially reasonable efforts to keep interference with the use of the garage and any affected Common Elements for their respective intended purpose by the Owner of the Residential Property to a minimum, and such latter covenant shall apply (A) to the design and installation of the chase, and (B) during the prosecution of the work related to the installation of the chase.

(K) An exclusive easement for the maintenance of the Commercial Easement Facilities.

(L) A non-exclusive easement for egress and entrance into the Commercial Property at sidewalk level from Division Street.

4.2 Each Easement created under this Article which provides or requires, for its enjoyment, ingress and egress on, over, across or through the Residential Property shall be subject (except in an Emergency Situation), to such reasonable limitations as the Owner of the Residential Property may, from time to time after consultation with the Owner of the Commercial Property, impose with respect to the establishment of limited paths of ingress and egress and limited hours of the day or days of the week during which such Easements may be used to prevent any unreasonable interference with the use and operation of the Residential Property, and in order to assure the reasonable security of the Residential Property; provided, however, that any such limitations shall not preclude or unreasonably restrict enjoyment or exercise of any such Easement.

4.3 Easements provided for, declared or created under Section 4.1 shall be binding upon the Residential Property and the Owner of the Residential Property, and all such Easements shall run in favor of and inure to the benefit of and be appurtenant to the Commercial Property.

4.4 The Owner of the Residential Property shall have the right, at its sole cost and expense, to relocate within its Property any Facilities and Easements which burden its Property and benefit the Commercial Property, other than Easements declared or created under Sections 4.1(A), 4.1(C), 4.1(D), and the exclusive Easements granted under Sections 4.1(H) and 4.1(I), so long as such relocation does not have a material adverse effect on the use and operation of the Commercial Property.

Article V

Structural Support

5.1 No Owner shall take any action that would adversely affect the structural safety or integrity of the Building as opined by a structural engineer.

5.2 If substitute or additional structural support is hereafter required in any portion of the Building for any reason relating to a defect in the design or construction of the Building, then the Owner of the Residential Property shall be responsible for the cost thereof, including engineering fees, such cost to be allocated between the Owner of the Residential Property and the Owner of the Commercial Property in a fair and equitable manner that is based upon the relative benefit the subject substitute or additional support would provide to, respectively, the Residential Property and the Commercial Property.

5.3 (A) In the event that the Owner of the Residential Property and the Owner of the Commercial property fail to agree on the need or method for such substitute or additional structural support, and/or on the allocation between them of the cost of designing and constructing such additional or substitute structural support, the Commercial Property Owner and the Residential Property Owner shall each appoint an Illinois licensed structural engineer to make such determination or determinations. If those appointed structural engineer are not able to agree within thirty (30) days of the date on which the last of them was appointed pursuant to the preceding provisions of this Section 5.3, the Owner of the Residential Property and the Owner of the Commercial Property shall cause said structural engineer to jointly appoint a third Illinois licensed structural engineer to review their recommendations and make a final determination of the matters described in Section 5.2 above on which the owner of the Residential Property and the Owner of the Commercial Property are unable to agree. The consensual determination of the first two structural engineers or the determination of the third structural engineer, whichever shall be applicable, shall be binding on the Owners.

(B) It is agreed that no design, and or construction of any additional or substitute structure support that is determined necessary in accordance with the preceding provisions of Article V shall be undertaken without the prior written consent to same by the Owners of the Residential Property and the Owner of the Commercial Property, such consent not to be unreasonably withheld, delayed or conditioned by any such Owner.

Article VI

Building Services

6.1 Owner of Residential Property. The Owner of the Residential Property shall furnish or cause to be furnished the following services to the Owner of the Commercial Property when, as and if required in order that the Building is kept and maintained or, as applicable, operated as a first class mixed-use building containing residential condominium units with commercial space on its ground floor:

(A) **City Water and Main Sewer.** Cold water and main sewer service from the City of Chicago (the "City") and required by the Owner of the Commercial Property from the City

main through the water supply system located in the Building ("**Building Water Supply Systems**"). In the event that the Commercial Building is separately sub-metered for domestic cold water use, the Commercial Property Owner shall pay the expense of said water and/or sewer services directly to the City or, based on the readings of such sub-meter, shall reimburse the Association only for its actual usage of City cold water and main sewer services. In the event that the Commercial Building is not separately sub-metered for domestic cold water use, the Commercial Property Owner shall reimburse the Association for the expense of said water and/or sewer services in accordance with the provisions of Section 6.4(A) (I) of this Declaration.

(B) **Exterior Walls/Facade of the Building.** Maintenance, repair and replacement of the Building's and the Commercial Property's exterior walls, including the Building's and the Commercial Property's exterior facade facing Division Street, excluding any windows and doors making up a portion of the exterior facade of the Commercial Property.

(C) **Fire Alarm and Emergency Telephone Systems.** Maintenance of Building's Facilities that monitor the Building's fire alarm and emergency telephone systems. To the extent this item is separately assessed to each Owner, each Owner is responsible for the expense of operating its respective systems.

(D) **Fire Suppression System.** Maintenance of the fire suppression system for the Building. To the extent maintenance or operation of this system is separately assessed to each Owner, each Owner is responsible for its respective systems.

(E) **Roof.** Maintenance of the roof of the Building, including the storm drains located on the roof.

(F) **Sanitary Waste System.** Maintenance, repair and replacement of any portion of the Sanitary Waste Systems serving both the Commercial Property and the Residential Property.

(G) **Common Elements and Sidewalks.** Maintenance, repair and replacement of (and maintaining capital reserves as reasonably necessary for such purposes) (i) all Common Elements, including, without limitation, parking areas, loading areas, garbage storage areas, stairways, corridors and landscaped areas, and (ii) the sidewalks adjacent to the Building, including by keeping or causing the City to keep such sidewalks in a state of good condition and repair and free from snow, ice and debris.

6.2 The Owner of the Commercial Property shall furnish or cause the tenants therein to provide trash dumpsters and trash removal for their exclusive use from time to time.

6.3 Each Owner shall make a good-faith effort to operate its Facilities and furnish all services as required under this Article in a manner which will provide each Owner with comfortable occupancy and enjoyment of its respective portion of the Building for its intended use as first-class commercial or residential property; but in no event shall an Owner be

obligated to use more than reasonable diligence in performing the services required of such Owner under this Article, or be liable for consequential damages for failure to perform hereunder or be liable for interruption or inadequacy of service, loss or damage to property or injury (including death), to any person for any reason. Each Owner obligated to furnish services hereunder reserves the right to curtail or halt the performance of any service hereunder at any reasonable time and upon reasonable notice to the extent reasonably necessary to perform Maintenance or in an Emergency Situation.

6.4 Submission of statement(s) for services rendered pursuant to this Article, provisions for payment thereof, and provisions for additional payments incurred in connection with such services and the operation, maintenance, repair and replacement of shared Facilities shall be made as follows:

A. Allocation of Costs.

I. The Owner of the Commercial Property shall bear 9.5 % of the expense incurred by the Residential Property Owner for (a) landscape maintenance (b) snow removal, (c) Building casualty insurance in accordance with Section 9.1(A) herein, (d) maintenance of sanitary sewers connecting the Building to public facilities, and (g) roof repair and replacement, including reserves therefore, (h) exterior walls surrounding the Commercial Building, (i) fire suppression systems, (j) fire alarm systems, and (k) purchasing water, for use of the occupants of the Commercial Property not directly assessed to the Owner of the Commercial Property. The Owner of the Residential Property shall bear 100% of all other costs and expenses of operating, maintaining, repairing and replacing the Building, including but not limited to all common area utility, decorating & maintenance expenses, elevator maintenance and replacement, and all other expenses and costs not specifically provided for in this paragraph A (1). Additionally, any costs which result from, are based upon, arise out of, or relate to a defect in the design and/or the initial construction of the Building shall be borne entirely by the Owner of the Residential Property and the Owner of the Commercial Property in a fair and equitable manner that is based upon the relative benefit the expenditures in question bear to, respectively, the Residential Property and the Commercial Property. If the Owner of the Residential Property and the Owner of the Commercial Property are not able to agree on the allocation between them of such costs, then their dispute shall be resolved in the same manner that disputes relating to additional structural support are required to be resolved under Section 5.3(A) above.

II. Each Owner shall bear the expense of removal of trash generated by the occupants of their property.

B. Submission and Payment of Statements. The Owner of the Residential Property shall submit to the Owner of the Commercial Property an annual budget for the amount due pursuant to Section 6.4(A) above, and the Owner of the Commercial Property shall remit one-twelfth (1/12) of annual budget to the Owner of the Residential Property on the first day of each month. Within ninety (90) days of the end of each calendar year, the Residential Property Owner shall

submit an accounting of the actual expense incurred during the prior calendar year for the expenses incurred pursuant to Section 6.4(A) above, and the Owner of the Commercial Property shall remit any amount due therefore to the Residential Property Owner in excess of the budget payments made. The Commercial Owner may inspect, copy and audit Residential Property Owner's books and records upon reasonable prior notice. If an audit reveals an overcharge by Residential Property Owner by 2% or more in Commercial Property Owner's share of charges pursuant to this Article, then the Residential Property Owner shall pay the cost of the audit and Residential Property Owner shall immediately reimburse Commercial Property the amount of the overcharge, if any.

6.5 If any Owner shall fail to: (i) perform the services required to be performed by it pursuant to this Article (except when such failure is caused by any other Owner or unavoidable delay); or (ii) perform its obligations under Section 10.1 hereof and such failure shall continue to a period of thirty (30) days after written notice thereof to the defaulting Owner ("Defaulting Owner"), from the other Owner, such other Owner shall have the right to perform the same until such time as the Defaulting Owner cures its failure to perform and receive a credit or reimbursement for the cost thereof. Such notice shall not be required in an Emergency Situation.

6.6 Intentionally omitted.

6.7 An Owner, obligated to perform Maintenance of Facilities shall, in replacing Facilities, replace such Facilities with Facilities substantially equivalent or better and providing substantially the same quality of service or better.

6.8 If at any time the actual allocation of cost of Maintenance based on an Owner's usage recorded by meters cannot be determined because the meters or system for recording metered information are not installed or operative, then, for such period when the usage data from meters is unavailable, the Owner performing such Maintenance shall make such reasonable determination of costs based on usage, using such experts or systems as such Owner may consider helpful to achieve an estimate of usage. Such Owner shall notify the other Owner in detail of its determination of estimated usage and the method for such determination at the time such Owner sends a notice or statement relating to such Maintenance,

If, within thirty (30) days after receipt of such notice, the Owner receiving such notice does not, in good faith, dispute that such method of estimating usage has been determined reasonably, such determination of usage shall be final and conclusive upon the parties; provided, however, if an Owner receiving such notice, in good faith, disputes that the method of estimating usage has been determined reasonably, he shall so notify the other Owner.

6.9 In addition to the foregoing provisions in this Article, the Owner of the Commercial Property shall be solely responsible for all of the costs of the maintenance, repair and replacement of any doors and windows adjacent to and serving exclusively the Commercial Property, and other costs 100% attributable to the Commercial Property.

6.10 The Commercial Property tenants, or in the event of vacancy, the Commercial Property Owner shall be responsible for their own utilities including gas and electricity. Water use is as set forth in Section 6.1(A) herein.

6.11 Each Owner shall be responsible for selecting competent, licensed (as required) and insured service contractors for the services to be rendered pursuant to Sections 6.1 and 6.2 herein.

Article VII

Compliance with Laws Removal of Liens

7.1 The Owners shall each comply with all laws, codes, rules, orders, ordinances, regulations and requirements now or hereafter enacted or promulgated by the United States of America, State of Illinois, City of Chicago, and any other governmental or quasi-governmental authority or agency now or hereafter having jurisdiction over the Total Property, the Building or any portion thereof, if non-compliance would subject the other Owner or any of the holders of the First Mortgages to civil or criminal liability, or would jeopardize the full force or effect of any certificate of occupancy issued to the other Owner or for the Building itself or would jeopardize the other Owner's right to occupy or utilize beneficially their respective portion or portions of the Total Property or any part thereof, or would result in the imposition of a lien against any of the property of the other Owner.

7.2 The Owners shall each comply with all rules, regulations and requirements of any insurance rating bureau having jurisdiction over the Total Property or any portion thereof and the requirements of any insurance policy affecting insurance coverage on the other Owner's portion of the Total Property, if non-compliance by it with respect to its portion of the Total Property or any portion thereof would: (i) increase the premiums of any policy of insurance maintained by the other Owner or the premiums of any policy of insurance maintained by both owners; or (ii) render the other Owner's portion of the Total Property uninsurable; or (iii) create a valid defense to the other Owner's right to collect insurance proceeds under policies insuring such other Owner's portion of the Total Property: provided, that this paragraph shall not apply to insurance policies of individual Unit Owners' provided, further, however, that if such compliance is hereafter required solely because of the nature of the use, possession or management of or activities in the Owner's portion of the Total Property, the other Owner shall be liable for the cost and expense of such compliance. If at any time an Owner so obligated to comply shall not proceed diligently with any such compliance and such failure to proceed shall adversely and materially affect the other Owner, then, any Creditor Owner may give written notice to the Defaulting Owner specifying the respect or respects in which the cure of such non-compliance is not proceeding diligently and, if upon expiration often (10) days after the receipt of such notice, any such cure of the non-compliance is still not proceeding diligently, then the Creditor Owner may cause such compliance to occur by taking all appropriate steps to carry out the same. The Creditor Owner shall be entitled to reimbursement upon demand from the Defaulting Owner for all costs and expenses incurred by the Creditor Owner in connection with causing any such compliance to occur.

7.3 Each Owner shall remove, within thirty (30) days after the filing thereof, any mechanics', materialmen's or any other like lien on the other Owner's portion of the Total Property, or on its portion of the Total Property if the existence or foreclosure of such lien on its portion of the Total Property would adversely affect any Easement created hereunder or services to be furnished pursuant to **Article "VI"** hereof arising by reason of any work or materials ordered by any act taken, suffered or omitted by the Owner. In the event the Defaulting Owner fails to remove any such lien within such thirty (30) day period, the Creditor Owner may take such action as such Owner may deem necessary to remove such lien. The Creditor Owner shall be entitled to reimbursement from the Defaulting Owner for all costs and expenses incurred by the Creditor Owner in removing or attempting to remove such lien. Notwithstanding the foregoing, the Defaulting Owner shall not be required to remove such lien so long as within ninety (90) days of filing, such lien cannot be foreclosed and the Defaulting Owner (A) shall in good faith diligently proceed to contest the same by appropriate proceedings and shall give written notice to the Creditor Owner of its intention to contest the validity or amount of such lien, and (B) shall deliver to the Creditor Owner either: (i) cash or surety bond from a responsible surety company acceptable to the Creditor Owner *in* an amount equal to 150% of the lien claim and all interest and penalties then accrued thereon, or such greater amount as may reasonably be required to assure payment in full of the amount claimed plus all penalties, interest and costs which may thereafter accrue by reason of such lien claim, or (ii) other security reasonably acceptable to the Creditor Owner.

7.4 Each Owner (hereinafter, in this Section, the "Indemnifying Owner"), covenants and agrees, at its sole cost and expense, to indemnify and hold harmless the other owner (hereinafter, in this Section, the "Indemnitee"), from and against any and all claims against Indemnitees for losses, liabilities (civil or criminal), damages, judgments, costs and expenses, and any actions or proceedings arising therefrom, by or on behalf of any person, firm, corporation or governmental or quasi-governmental authority, other than the Indemnitees arising from the Indemnifying Owner's use, possession or management of the Indemnifying Owner's portion of the Total Property or activities therein, or arising out of Indemnifying Owner's use, exercise or enjoyment of an Easement, and from and against all costs, reasonable attorneys' fees, expenses and liabilities incurred with respect to any such, claim, action or proceeding arising therefrom. In case any action or proceeding is brought against the Indemnitee by reason of any such claim, the Indemnifying Owner, upon notice from the Indemnitee, covenants to resist or defend such action or proceeding with attorneys reasonably acceptable to the Indemnitee. Any counsel for the insurance company providing insurance against such claim, action or proceeding shall be presumed reasonably satisfactory to the Indemnitee.

Article VIII

Real Estate Taxes

8.1. When separate real estate tax bills are received, the Owner of the Commercial Property shall pay the real estate taxes, special assessments and any and all other taxes and assessments of every kind or nature levied upon the Commercial Property, and the Owner of Residential Property shall pay the real estate taxes, special assessments and any and all other taxes and assessments of every kind or nature levied upon the Residential Property. Each

Unit Owner shall pay the real estate taxes, special assessments, and any and all other taxes and assessments of every kind and nature levied upon his Unit Ownership.

8.2 (A) At any time that the Commercial Property and the Residential Property are not separately assessed and taxed, the Owner of the Commercial Property shall pay the real estate taxes, special assessments and any and all other taxes and assessments of every kind or nature levied upon the Total Property in an amount equal to 9.5% of the total statement. The remaining portion of said statement shall be paid by the Owners of the Residential Property, in amounts equal to their respective percentage of ownership as shown on Exhibit C of the Declaration of Condominium Ownership.

(B) Upon receipt of the real estate tax bills for the Total Property, the Owner of the Commercial Property shall forward a copy of same to the President of the Association of the Residential Property, together with the Owner of the Commercial Property's share of such tax bills, payable to the Cook County Collector. The Owners of the Residential Property shall then pay their respective share of said statement, prior to the due date for said taxes. The Owners of Association of the Residential Property shall then forward to the Owner of the Commercial Property a copy of the paid receipt for said taxes.

(C) If the Owner of the Commercial Property attempts to obtain a reduction of the assessed valuation upon the Total Property or takes other action for the purpose of reducing taxes thereon with respect to any period prior to the time that the Commercial Property and the Residential Property are separately assessed, the Residential Owner shall cooperate with the Owner of the Commercial Property in such attempt and shall share in the costs incurred in proportion to its share of the real estate taxes. Any tax refund received as a result of such action shall be apportioned between the Owners in accordance with their respective portions of the real estate taxes as has been determined by the pursuant to Section 8.2(A). Nothing contained herein shall affect the independent right of each Owner to protest taxes and other charges to the extent the same affect only such Owner's portion of the Total Property.

8.3 If, prior to the time separate tax bills are obtained, either Owner shall fail to pay any tax or other charge, or share thereon, which is due and which such Owner is obligated to pay pursuant to this Article, and if such unpaid tax or charge is a lien or encumbrance on the portion of the Total Property owned by the other Owner, or if any lawful authority would have the right to sell or otherwise foreclose against the portion of the Total Property owned by the other Owner or extinguish any Easement benefiting the other Owner by reason of such nonpayment, or subjects the other Owner to personal liability for the same, then the Creditor Owner may, after ten (10) days written notice to the Defaulting Owner, pay such tax or charge, or share thereof, together with any interest and penalties thereon, and the Defaulting Owner shall, upon demand, reimburse the Creditor Owner for the amount of such payment, including the amount of any interest or penalty amounts accrued thereon.

Article IX

Insurance

9.1 Each Owner shall procure and maintain the following insurance:

(A) (i) The Owner of the Residential Property shall keep the Building, including the Commercial Property, insured for the coverage required by the Illinois Condominium Property Act ("Act"), for an amount not less than 100% of the "Full Insurable Replacement Cost" (as hereinafter defined), (or such greater amount as may be necessary to avoid co insurance) thereof. Additionally, such insurance shall insure against boiler and machinery risks, on a comprehensive blanket basis covering all Building equipment, machinery and apparatus consisting of, but no limited to, boilers, heating apparatus, fired and unfired pressure vessels, air conditioning equipment, miscellaneous electrical apparatus and their appurtenant equipment and piping and ducts on a repair or replacement basis for not less than ninety (90%) percent of the Full Insurable Replacement Cost thereof (or such greater amount as may be necessary to avoid co-insurance); provided, however, each Owner shall separately carry primary insurance covering damage to its respective Easement Facilities.

(ii) The term "**Full Insurable Replacement Cost**" shall mean actual replacement cost (exclusive of cost of excavation, foundations and footings below grade level), and shall be determined from time to time by an appraisal prepared by an independent appraiser chosen by the Owner of the Residential Building, the cost of such appraisal to be shared by the Owners proportionately based on the Full Insurable Replacement Cost of their respective portions of the Building. Such policies shall be endorsed with a replacement coverage endorsement, and an agreed amount clause in accordance with such appraisal.

(B) Each Owner, at its respective sole cost and expense, shall maintain comprehensive general liability insurance with broad form extensions covering claims for personal and bodily injury, death or property damage occurring in, on, within, upon or about: (i) the portion of the Total Property owned by such Owner, or as a result of operations thereon (including contractual liability covering obligations created by this Declaration including, but not limited to, those indemnity obligations contained herein); or (ii) any other portion of the Total Property as a result of the actions of such Owner or its lessees, agents or employees. Such insurance shall be primary coverage as to claims for injury or damage resulting from the acts or failure to act of an Owner, with any insurance carried by the other Owner being excess coverage. Such insurance shall be in such amounts as may be required by law and as from time to time shall be carried by prudent owners of first-class commercial or residential buildings (as the case may be), in the City of Chicago, Illinois but in all events with limits of not less than \$1,000,000 combined single limit for personal and bodily injury or property damage with an additional \$1,000,000 umbrella coverage: and

(C) The Owner of the Commercial Property may maintain rent loss and/or business interruption insurance as it deems desirable.

9.2 Insurance policies required by Section 9.1 hereof shall be purchased from insurance companies authorized and licensed to transact business in the State of Illinois who shall hold a current Policyholder's Alphabetic and Financial Size Category Rating of not less than A VIII according to Best's Insurance Reports, or a substantially equivalent rating from a nationally-recognized rating service. Insurance policies required by Section 9.1 may (a) be purchased from a single insurance company or group of companies designated by the Owners of each. Property and shall contain the same terms and conditions of coverage and policy wording, and (b) insure the respective interests of each Owner and their mortgagees, and (c) provide for the adjustment of claims with the insurer by the Owner who sustained the loss and in the event both Owners sustained a loss by the Residential Property Owner, and, if required by the terms of such Owner's First Mortgage, the holder of such First Mortgage. So long as the Residential Property remains subject to the provisions of the Act, insurance on additions, alterations, improvements and betterments to individual Units shall be the responsibility of those persons designated in the Condominium Declaration as being responsible for such insurance.

9.3 Each policy described in Section 9.1 hereof: (i) shall provide that the knowledge or acts or omissions of any insured party shall not invalidate the policy as against any other insured party or otherwise adversely affect the rights of any other insured party under such policy; (ii) shall insure as named insured and additional named insured's, as the case may be, the Owner of the Commercial Property (and those of its tenants who it has identified to the Owner of the Residential Property) and the Owner of the Residential Property, together with such affiliates of such owners as any of them may designate from time to time, all as their interests may appear; provided, however, that so long as the Residential Property shall remain submitted to the Act, the Association and not the Individual Unit Owners of the Residential Property shall be insured as a named insured; (iii) shall provide, except for liability insurance described in Section 9.1(B) by endorsement or otherwise, that the insurance shall not be invalidated should any of the insured's under the policy waive in writing prior to a loss any or all rights of recovery against any party for loss occurring to the property insured under the policy, if such provisions or endorsements are available and provided that such waiver by the insured's does not invalidate the policy or diminish or impair the insured's ability to collect under the policy, or unreasonably increase the premiums for such policy unless the party to be benefited by such endorsement or provision pays such increase; (iv) shall provide, except for (a) insurance for loss of rental income or loss of income covered by business interruption or extra expense incurred to reduce such loss of income, and (b) liability insurance required by Section 9.1(B), that all losses payable thereunder shall be paid to a Depository in accordance with the terms of Article "XVI" hereof; (v) shall provide for a minimum of thirty (30) days advance written notice of cancellation, non-renewal or material modification thereof to all insured's thereunder and to the holders of the First Mortgages; and (vi) shall include a standard mortgagee endorsement or loss payable clause in favor of each of the holders of the First Mortgages in form satisfactory to it.

9.4 Limits of liability or types of insurance specified in this Article or carried by the Owners shall be reviewed by the Owners no less often than annually at least thirty (30) days before the expiration of each policy to determine if such limits, deductible amounts and types of insurance are reasonable and prudent in view of the type, place and amount of risk to be transferred, and to

determine whether such limits, deductible amounts and types of insurance comply with the requirements of all applicable statutes, laws, ordinances, codes, rules, regulations or orders and whether on a risk management basis, additional types of insurance or endorsements against special risks should be carried or whether required coverage's or endorsement should be deleted. Initially, deductible amounts for insurance required under Section 9.1(A), 9.1(B) and 9.1(C) shall not exceed \$ 10,000. Such limits shall be increased or decreased, deductible amounts increased or decreased or types of insurance shall be modified, if justified, based upon said annual review, and mutual agreement of the Owners to modify said deductible amount, the Owners shall at either Owner's election, execute an instrument in recordable form evidencing such modification, which any Owner may record with the Recorder as a supplement to this Declaration; provided that the Owner of the Commercial Property shall have the right, in its reasonable discretion, to increase, from time to time, the limits of liability for the insurance required under Section 9.1(B).

9.5 Copies of all insurance policies, original certificates of insurance evidencing such policies or certified binders delineating all forms of coverage and endorsements required hereunder shall be delivered to each Owner and to the holders of the First Mortgages at the time of the conveyances and at least twenty (20) days prior to the expiration date of any such expiring insurance policy.

9.6 Should an Owner fail to provide and maintain any policy of insurance required under this Article or pay its share of the premiums or other costs as herein required, then the other Owner may purchase such policy and the costs thereof (or the Defaulting Owner's share of such costs), shall be due from the Defaulting Owner within ten (10) days after the Creditor Owner's written demand therefor.

9.7 Provided that such a waiver does not invalidate the respective policy or policies or diminish or impair the insured's ability to collect under such policy or policies or unreasonably increase the premiums for such policy or policies unless the party to be benefited by such waiver pays such increase, and without limiting any release or waiver or liability or recovery contained elsewhere in this Declaration, each of the Owners, for itself and for each party claiming under, by or through such Owner, including the tenants of the Commercial Property, hereby waives all claims for recovery from the other Owner for any loss or damage to any of its property insured (or required hereunder to be insured), under valid and collectible insurance policies to the extent of any recovery collectible (or which would have been collectible had such insurance required hereunder been obtained), under such insurance policies plus any deductible amounts.

Article X Maintenance and Repair;

Damage, to the Building

10.1 Except as expressly provided in Sections 6.1 and 6.2 hereof relating to Maintenance of certain Facilities and areas of the Building or hereinafter in this Article in the event of fire or

other casualty, and without limiting or diminishing each Owner's obligations under Article "V", each Owner shall, at its sole cost and expense, keep its respective Property, its fixtures, equipment and appurtenances therein (including, without limitation, and its kitchen waste interceptors), in good and safe order and condition, and shall make all repairs or replacements of, in, on, under, within, upon or about such property, whether said repairs or replacements are to the interior or exterior thereof, or structural or non-structural components thereof or involve ordinary or extraordinary repairs or replacements, necessary to keep the same in safe first-class order and condition, howsoever the necessity or desirability thereof may arise, and whether or not necessitated by wear, tear, obsolescence, defects or otherwise, and each Owner further agrees that it shall not suffer or commit, and shall use all reasonable precaution to prevent waste to such property.

10.2 If the Building is damaged by fire or other casualty, and if such damage occurs in, on, under, within, upon or about: (a) the Commercial Building only; or (b) the Residential Building only, and does not in each instance affect any other portion of the Building, then any such damage shall be repaired and restored by the Owner of the portion of the Building in which any such damage occurs in as timely a manner as practicable under the circumstances, and such Owner shall, in accordance with the provisions of Article "XVII" hereof, be entitled to withdraw any insurance proceeds held by the Depositary by reason of any such damage, for application to the cost and expense of the repair and restoration of any such damage. If the nature of the *damage* is such that it does not fall within the categories set forth in clauses (a) or (b) above, then the provision set forth in Section 10.3 with respect to the selection of a contractor and the preparation of the plans and specifications shall be applicable. If, at any time, any Owner so obligated to repair and restore such damage shall not proceed diligently with any repair or restoration of such damage which adversely and materially affects an Easement in favor of any other Owner or services to be furnished any other Owner under Article "VI" hereof, then: (i) the Creditor Owner may give written notice to the Defaulting Owner specifying the respect or respects in which such repair or restoration is not proceeding diligently and, if, upon expiration of thirty (30) days after the receipt of such notice, any such repair or restoration work is still not proceeding diligently, then the Creditor Owner may perform such repair and restoration and may take all appropriate steps to carry out the same; or (ii) in an Emergency Situation the Creditor Owner may immediately perform such repair or restoration and may take all appropriate steps to carry out the same. The Creditor Owner in so performing such repair and restoration shall, in accordance with Article "XVII" hereof, be entitled to withdraw any insurance proceeds and any other monies held by the Depositary as a result of any such damage, for application to the cost and expense of any such repair or restoration and shall also be entitled to reimbursement upon demand from the Defaulting Owner for all costs and expenses incurred by the Creditor Owner in excess of said insurance proceeds.

10.3 If the Building is damaged by fire or other casualty and if the provisions of Section 10.2 are not applicable because the nature of the damage is such that it does not fall within either of the categories set forth in Section 10.2 then the repair or restoration of such damage shall be the joint responsibility of the Owners. Said repair and restoration shall be commenced and pursued to completion in as timely a manner as practicable, and shall be

performed on behalf of the Owners by a reputable contractor or contractors experienced in the construction of structures similar to the Building jointly selected by the Owners. In the event the Owners fail to agree upon the selection of a contractor or contractors, the Owners shall request the advice of an architect, selected by the Owners, if after receiving the architect's advice, the Owners cannot agree on a contractor or contractors, then the selection of a contractor or contractors shall be made by arbitration, pursuant to Article "XII" hereof. The plans and specifications for such repair and restoration shall be prepared by the selected architect, in accordance with instructions given by the Owners. Such plans and specifications shall provide for the Building to be rebuilt as nearly as commercially practicable to the Building as constructed prior to the damage unless prohibited by law, or unless the Owners otherwise agree. The architect shall furnish to each of the Owners a set of the plans and specifications, which it has prepared or caused to be prepared. Unless the Owners otherwise agree any contractor or contractors shall work under the supervision of the architect, and the architect is hereby authorized and directed to instruct the Depository, from time to time, but only with the prior approval of the Owner in whose portion of the Building such repair and restoration is being performed as such repair and restoration progresses, to disburse in accordance with Article "XVIII" hereof; the insurance proceeds held by the Depository and any other monies deposited with the Depository pursuant to Section 10.4 hereof for application against the cost and expense of any such repair and restoration.

10.4 If the cost and expense of performing any repair and restoration provided for in Section 10.3 hereof shall exceed the amount of available insurance proceeds, if any, paid by reason of the damage, then such excess cost and expense (or the entire amount of such cost and expense, if there is no insurance proceeds), shall be borne by the Owners in proportion to the cost and expense of repairing to their former condition their respective portions of the Building; provided, however, that to the extent such excess cost and expense results from the failure of an Owner to maintain the amount of insurance required under Section 9.1 hereof, such Owner shall bear such portion of such excess cost and expense.

10.5 In any instance of repair or restoration pursuant to Sections 10.2, 10.3 or 10.4 hereof, either Owner may require that an estimate of the cost or expense of performing such repair or restoration be made by a reputable independent professional construction cost-estimating firm, except if a construction contract providing for the performance of such repair and restoration for a stipulated sum theretofore has been executed. If said estimate or stipulated sum, or if the actual amount incurred in performing repair or restoration, exceeds the amount of insurance proceeds, if any, paid or payable by reason of the damage (plus any applicable deductible), then either Owner may at any time give notice to the other Owner demanding that the Owner deposit with the Depository that amount of such excess cost and expense attributable to the Owner pursuant to this Article,

In lieu of depositing its share of such excess amount based upon said estimate or stipulated sum, or actual cost and expense of performing such repair or restoration, the Owner may deliver to the Depository security for payment of its share reasonably acceptable to the other Owner and the Depository. Such security may be in the form of, but shall not be limited to, an

irrevocable and unconditional letter of credit in favor of the Depository in the face amount of the share owed or an irrevocable loan commitment, satisfactory to the other Owner issued by a responsible lending institution, to disburse an amount equal to such Owner's share of such excess amount to the Depository to pay the cost and expense of any such repair or restoration as the work progresses in proportion to such Owner's share of the cost and expense of any such repair or restoration, if the amount of the security required is based on an estimate of the cost and expense of repair and restoration, then the amount of security required to be deposited or available shall be readjusted upward or downward as the work progresses based on actual cost and expenses of the work. If an Owner shall fail to pay, or, as the case may be, deposit such Owner's share of the cost and expense (or estimated cost and expense), of performing any repair or restoration in accordance with this Section, or fails to deliver the security provided for herein within ten (10) business days after receipt of the other Owner's written demand therefore, then the Creditor Owner may pay the Defaulting Owner's share and the Defaulting Owner shall, upon written demand, reimburse such Creditor Owner for such payment and the Creditor Owner's reasonable costs and expenses incurred in connection with such payment.

10.6 Upon completion of the repair and restoration of any damage to the Building, any remaining insurance proceeds paid by reason of such damage shall be refunded to each Owner in proportion to the ratio that the insurance proceeds contributed by reason of such Owner's insurance bears to the total in insurance proceeds made available by the insurer for the repair and restoration, or if the insurance is provided by a single policy covering the Building, then the ratio of insurance proceeds attributed to such Owner's portion of the Building by the insurer to the total insurance proceeds made available by the insurer for the repair and restoration.

10.7 If the Building is destroyed or substantially damaged and the Owners agree not to rebuild, repair or restore the Building, subject to the written approval of the holders of the First Mortgages, then the Building shall be demolished to the extent necessary to comply with all applicable laws, statutes, ordinances, codes, rules, regulations, orders or requirements of any governmental entity or agency thereof having jurisdiction of the Building. In such event, the available insurance proceeds, other than insurance proceeds used to cause said demolition to be performed, shall be refunded to each Owner in the same ratio of insurance proceeds contributed by such Owner's insurance to the total insurance proceeds paid by reason of such damage or, if the insurance is provided by a single policy covering the Building, then in the ratio of insurance proceeds attributed by the insurer to such Owner's portion of the Building to the total insurance proceeds paid by reason of such damage. Such demolition shall be deemed to be a "repair or restoration" to which the provisions of Sections 10.3, 10.4, 10.5 and 10.8 hereof are applicable except that demolition, and not construction, shall be performed, in the event the Owners agree not to rebuild the Building, subject to the written approval of the holders of the First Mortgages. they may also make provision: (i) for sale of the Total Property by the Owners and distribution of sale proceeds; or (ii) for ownership of the Total Property by the Owners as tenants in common, with the right to sue for partition (but for purposes of such partition the Total Property shall be deemed not susceptible of division), all subject to the written approval of the holders of the First Mortgages, according to commercially reasonable standard.

10.8 For purposes of this Article, architects' and engineers' fees, attorneys' fees consultants' fees, title insurance premiums and other similar costs and expenses relating to repair or restoration shall be included in the costs and expenses of any such repair or restoration.

10.9 If an Owner damages the Property, Facilities, fixtures, equipment, appurtenances of the other Owner, then any such damage shall be repaired and restored by the Owner that caused the damage in as timely manner as practicable under the circumstances, if insurance proceeds are available to repair said damage, those proceeds shall be made available by the Depository to repair said damage. If said Owner fails to repair said damage, then said Owner is subject to the remedies provided herein this document.

Article XI

Liens, Debts, Interest and Remedies

11.1 If at any time an Owner fails within the time period set forth for payment, or if no time period is set forth, then within ten (10) business days after notice or demand to such Owner to pay to the other Owner any sum of money due any such Owner, as Creditor Owner, under or pursuant to the provisions of this Declaration, then, in addition to any other rights or remedies the Creditor Owner may have, such Creditor Owner shall have a lien against the Defaulting Owner's interest in the Total Property and a lien against any insurance proceeds payable to Defaulting Owner to secure the repayment of such sum of money and all interest on such sum accruing pursuant to the provisions of this Article. Such liens shall arise immediately upon the recording of a notice by the Creditor Owner with the Recorder and may be enforced by a proceeding in equity to foreclose such lien in like manner as a mortgage of real property in the State of Illinois, or by any other remedy available by statute or at law or in equity. Such liens shall continue in full force and effect until such sum of money and any accrued interest thereon shall have been paid in full. The liens provided for in this Section: (i) shall be subject and subordinate to the lien of any mortgage, trust deed or other encumbrance on the Defaulting Owner's interest in the Total Property at the time of the recording of the notice of lien for all amounts (whenever advanced or accrued), secured by said mortgage, trust deed or other encumbrance; and (ii) are subject to termination and defeat as provided in Section 11.4 below:

11.2 To the fullest extent permitted by law, the provisions of Article "X" of this Declaration shall be controlling over the provisions of the Act insofar as the provisions of the Act purport to limit: (i) the obligation of the Unit Owners to repair or restore the Residential Property; or (ii) the use of insurance proceeds for repair and restoration of the Residential Property. In the event of fire or other casualty or act of God or disaster causing damage to the Residential Property which would entitle the Owner of the Residential Property, under the Act, to withdraw all of the Residential Property from the Act and not to repair and restore the Residential Property as required by this Declaration, notwithstanding the foregoing sentence, then the Owner of the Commercial Property shall have a lien on the Residential Property and any

insurance proceeds payable for loss or damage to such portion of the Building under insurance policies carried pursuant to Article "IX" hereof, in an amount necessary so that the Owner of the Commercial Property shall have sufficient proceeds to demolish or repair and restore the Building to a condition so as adequately to assure:

- (A) the structural integrity and safety of the Building;
- (B) the continuous and efficient operation of all Building electrical, utility mechanical, plumbing and other systems serving the Commercial Building;
- (C) compliance with all zoning, building and other laws, rules, orders, ordinances, regulations and requirements of any governmental body or municipality or agency thereof having jurisdiction over the Total Property; and
- (D) the architectural unity and aesthetic appearance of the restored Building as first-class property.

The lien created by this Section shall be superior to and take precedence over any mortgage or other encumbrance constituting a lien on the Residential Property or any portion thereof. Such lien shall arise immediately upon the recording of a notice by the Owner of the Commercial Property with the Recorder following the occurrence of a fire or other casualty or act of God or disaster stating that it is a lien created by this Section of this Declaration. Such lien shall continue in full force and effect until either the sum of money required hereunder shall have been paid to the Owner of the Commercial Property, or the Owner of the Residential Property shall have repaired and restored the Residential Property as required by this Declaration. Such lien may be enforced by a proceeding in equity to foreclose such lien in like manner as a mortgage of real property in the State of Illinois, or by any other remedy available by statute or at law or in equity.

11.3 Subject to the limitations set forth in Article "XV" hereof, and without limiting any equitable remedies to which the Owner of the Commercial Property may be entitled, so long as the Residential Property remains subject to the provisions of the Act, no Unit Owner shall be personally liable for all or any part of any claim against the Owner of the Residential Property in excess of an amount equal to the amount of the claim multiplied by the percentage of ownership interest in Common Elements allocated to such Unit Owner's Unit Ownership as set forth in the Condominium Declaration. Upon payment of such amount for which a Unit Owner may be liable (i) any lien arising against such Unit Owner's Unit Ownership on account of such claim shall be deemed released against such Unit Owner's Unit Ownership without further act or deed by any such Unit Owner; and (ii) upon the written request of such Unit Owner, the Owner of the Commercial Property shall deliver to such Unit Owner an instrument evidencing the release of such lien, but only with respect to said Unit Owner's Unit Ownership. When a Unit Ownership is owned by more than one "person" (as defined in the Act), the liability of each such person for any claim against the Joint Ownership shall be joint and several.

11.4 No conveyance or other divestiture of title shall in any way affect, diminish or defeat any lien arising pursuant to this Article other than a divestiture resulting from a foreclosure of a

mortgage lien that is superior to the lien arising pursuant to this Article.

11.5 The holder of a mortgage or trust deed on all or any portion of the Commercial Property or the Residential Property shall have the right to an assignment of any lien affecting the property secured by its mortgage or trust deed upon payment of the amount accrued by such lien and shall in the event of said payment or satisfaction be subrogated to such other lien and any additional security held by the holder thereof. Such holder of a mortgage or trust deed may at any time give to the holder of the lien a written notice of its election to pay such amount. On a date *not* less than ten (10) and not more than thirty (30) days after such notice of election, the holder of a mortgage or trust deed shall pay the full amount of such lien, and the holder of the lien shall deliver to the holder of a mortgage or trust deed an instrument in recordable form assigning the lien together with the debt secured thereby.

11.6 Interest shall accrue on sums owed by a Defaulting Owner to a Creditor Owner and shall be payable from the date any such sum last became due hereunder until paid in full, at a rate per annum equal to the lesser of: (a) the floating rate which is equal to four (4%) percent in excess of the rate of interest from time to time announced by The Wall Street Journal, as its prime rate, reference rate or corporate base rate; and (b) the then maximum lawful rate of interest in Illinois applicable to the capacity of the Defaulting Owner and the nature of the debt. In the event a prime rate, reference rate or corporate base rate is not announced, and no maximum lawful rate applies, then interest shall accrue at the annual rate of twelve (12%) percent.

11.7 Subject to the limitations set forth in **Article "XV"** hereof the rights and remedies of an Owner provided for in this Article or elsewhere in this Declaration are cumulative and not intended to be exclusive of any other remedies to which such Owner may be entitled at law, or in equity or by statute. Either Owner may enforce, by a proceeding in equity for mandatory injunction, any other Owner's obligation to execute or record any document which such other Owner is required to execute under or pursuant to this Declaration. The exercise by such Owner of any right of remedy to which it is entitled hereunder shall not preclude or restrict the exercise of any other right or remedy provided hereunder.

11.8 Each claim of either Owner arising under this Declaration shall be separate and distinct, and no defense, set-off, offset or counterclaim arising against the enforcement of any lien or other claim of either Owner shall thereby be or become a defense, set-off, offset or counterclaim against the enforcement of any other lien or claim.

11.9 Actions to enforce any right, claim or lien under this Declaration shall be commenced within three (3) years immediately following the date the cause of action accrued, or such other shorter period as may be provided by law or statute; provided, however, that if prior to expiration of the period in which such action must be commenced, any holder of a First Mortgage is diligently proceeding to foreclose the First Mortgage, then such period in which an action by the Owner of the portion of the Total Property encumbered by such First Mortgage must be commenced shall be further extended for such additional time as may reasonably be necessary in order for the holder of such First Mortgage to obtain possession of

such portion of the Total Property.

11.10 A Defaulting Owner shall pay the reasonable attorneys' fees and court costs paid or incurred by a Creditor Owner in successfully enforcing its rights against the Defaulting Owner under this Declaration.

Article XII

Arbitration

12.1 The following matters shall be submitted for arbitration to the American Arbitration Association (the "AAA"), pursuant and subject to the provisions of this Article.

(A) All disputes, claims or controversies arising under this Declaration involving an amount not exceeding \$100,000 (in 2010 equivalent dollars), which shall not be resolved within sixty (60) days after same have arisen; and

(B) All other matters which are required under the provisions of this Declaration to be submitted for, or determined by arbitration.

(C) Any such dispute, claim, controversy or matter is referred to herein as a "Matter". Arbitration of any Matter shall be initiated by either Owner making a written demand therefore by giving written notice thereof to the other Owner and by filing a copy of such demand with the AAA. The AAA shall have jurisdiction upon the giving of such notice and the filing of such demand. Any such arbitration shall be held in Chicago, Illinois and be conducted and completed in an expeditious manner and without delay. The holders of the First Mortgages shall be party to any arbitration, of a Matter involving a matter that requires the consent or approval of the holders of the First Mortgages hereunder.

12.2 Unless otherwise agreed to in writing by the parties to the arbitration, within twenty (20) business days after the notice demanding arbitration has been given, the parties shall jointly designate one arbitrator to resolve the Matter. If the parties fail to designate the arbitrator within such time period, an arbitrator shall be appointed in accordance with the procedures set forth in the applicable AAA rules, provided, however, that in any event such arbitrator shall be experienced as to the design, construction and/or operations, as the Matter requires, of multi-use structures similar to the Building. Except where contrary to the provisions set forth in this Declaration, the rules of the AAA for commercial arbitration shall apply to the arbitration of any Matter. During the twenty (20) day time period referenced above, the parties may agree in writing to any additions, deletions or changes to the applicable arbitration rules.

12.3 The arbitrator shall commence hearings within sixty (60) days of selection, unless the Owners or the arbitrator agree upon an expedited or delayed schedule of hearings. Prior to the hearings either Owner may send out requests to compel document production from the other Owner. Disputes concerning the scope of document production and enforcement of the

document requests shall be subject to agreement by such Owners, or may be ordered by the arbitrators to the extent reasonable. The arbitrator may obtain independent legal counsel or other professional consultants to aid in resolution of legal or other questions presented in the course of arbitration to the extent reasonably necessary to the fair resolution of the Matter and to the extent that it is economical to do so considering the financial consequences of the Matter. The arbitrator in rendering a decision may base such decision only on the facts presented in the course of arbitration and shall not modify or amend the provisions of this Declaration. Subject to the other terms hereof, if the Owner fails or refuses to appear at and participate, in an arbitration hearing after due notice, the arbitration panel may hear and determine the Matter upon evidence produced by the appearing Owners. The arbitration costs shall be borne equally by each Owner except that each Owner shall be responsible for its own expenses.

12.4 Unless otherwise agreed in writing, the Owners shall continue to perform all obligations and make all payments due under this Declaration in accordance with this Declaration during the course of any arbitration constituted or conducted under the provisions of this Article. The obligation of the Owners to continue performance and make payments despite the existence of any arbitration hereunder shall be enforceable by any party to the Matter by application to any court of competent jurisdiction for an injunctive order requiring the immediate performance of such obligations as provided in the preceding sentence until such time as any Matter is resolved as provided in this Article.

12.5 With respect to any Matter, subject to arbitration under this Article, it is agreed that the arbitration provisions of this Article shall be the sole remedy of the Owners under this Declaration. Notwithstanding any other provisions of this Declaration, the foregoing agreement to arbitrate shall be specifically enforceable under prevailing arbitration law. The foregoing agreement to arbitrate shall not constitute any agreement or consent to arbitration of any dispute claim, controversy or matter not described in this Article, or with any person not named or described herein, provided that any arbitration proceeding initiated under the terms of this Article may, at the request of any party, be joined or consolidated with other arbitration proceedings involving additional parties if the Matter and the subject of such other proceedings arise out of common or interrelated factual occurrences. Any award of the arbitrators shall be final and binding upon the Owners, and the holders of the First Mortgages and judgment thereon shall be entered by any court having jurisdiction.

Article XIII

Unavoidable Delays

The Owners shall diligently perform their respective obligations set forth herein. No Owner shall be deemed to be in default in the performance of any obligation created under or pursuant to this Declaration, other than an obligation requiring the payment of a sum of money, if and so long as non-performance of such obligation shall be directly caused by fire or other casualty, national emergency, governmental or municipal laws or restrictions,

enemy action, civil commotion, strikes, lockouts, inability to obtain labor or materials, war or national defense pre-emotions, acts of God, energy shortages or similar causes beyond the reasonable control of such Owner ("Unavoidable Delay"), and the time limit for such performance shall be extended for a period equal to the period of any such Unavoidable Delay; provided, however, that the Owner unable to perform (the "Non-Performing Owner"), shall notify the other Owner in writing of the existence and nature of any Unavoidable Delay within ten (10) days after the onset of any such Unavoidable Delay. The Non-Performing Owner shall, from time to time, upon written request of the other Owners, keep the other Owner fully informed, in writing, of all further developments concerning any such Unavoidable Delay and its non-performance.

Article XIV

Condemnation

14.1 In the event of a taking by the exercise of the power of eminent domain or deed in lieu of condemnation of all or any part of the Total Property, by any competent authority for any public or quasi-public use, the award, damages or just compensation (the "Award"), resulting from any such taking shall be allocated and disbursed, and any repair and restoration of the Building shall be performed, in accordance with the requirements of this Article.

14.2 All Awards resulting from the taking of all or any part of the Total Property, other than damages resulting from a taking of the temporary use of space as hereinafter described, shall be paid to the Depositary and disbursed by the Depositary as hereinafter provided. In the event of a taking of a temporary use of any space not affecting services described in Sections 6.1 or 6.2 hereof, each of the Owner of the Commercial Property and the Residential Property shall be entitled to receive directly from the taking authority any Award resulting from such temporary taking within its respective portion of the Total Property according to the law then applicable.

14.3 In the event of a taking (other than a temporary taking), of a part of the Commercial Property only, or the Residential Property only (not affecting services described in Sections 6.1 or 6.2 hereof, except those having minimal or incidental effect), the Owner of the portion of the Total Property in which the taking occurred shall repair and restore the remainder of its portion of the Building to form an architectural and functional whole. Such repair and restoration shall be commenced and pursued to completion in as timely a manner as practicable under the circumstances, and shall be at the sole cost and expense of the Owner of the portion of the Total Property in which the taking occurred. Such Owner shall be entitled to withdraw any Award paid to the Depositary by reason of such taking for application to the cost of said repair and restoration in accordance with the provisions of Article "XVII" hereof and to retain any excess not required for such repair and restoration; provided, however, that the right of the Owner of the Commercial Property to receive such excess, if any, shall be subject to the rights of the holders of the First Commercial Mortgage under the First Commercial Mortgage with respect to any such excess Award, and the right of the Owner of the Residential Property to receive such

excess, if any, shall be subject to the rights of the holders of the First Residential Mortgage under the First Residential Mortgage with respect to any such excess Award.

14.4 In the event of a taking other than: (a) a temporary taking described in Section 14.2 hereof; (b) a taking described in Section 14.3 hereof; or (c) a taking of all or substantially all of the Total Property, then, subject to the provisions of Section 14.6 hereof, the Owners shall jointly cooperate to repair and restore the remainder of the Building in accordance with plans and specifications jointly approved by the Owners and the holders of the First Mortgages. Such repair and restoration shall be commenced and pursued to completion in as timely a manner as practicable under the circumstances and shall be performed on behalf of the Owners by a reputable contractor or contractors experienced in the construction of high-rise structures similar to the Building jointly selected by the Owners. In the event the Owners fail to agree upon the selection of a contractor or contractors, the Owners shall request the advice of the architect.

If after receiving an architect's advice, the Owners cannot agree on a contractor or contractors, then the selection of a contractor or contractors shall be made by arbitration pursuant to Article "XII" hereof. The plans and specifications for such repair and restoration shall be prepared by an architect, unless the Owners shall otherwise agree in accordance with instructions given by the Owners, and subject to the approval of the holders of the First Mortgages. Such plans and specifications shall provide for repair and restoration of the remainder of the Building to form an architectural and functional whole with such changes in the Building as shall be required by reason of such taking. If as a result of such taking, any Easements or Covenants under this Declaration are extinguished or materially impaired, then changes shall be made to provide for Easements of access, ingress and egress and use of Facilities and for furnishing of Building services comparable, to the extent commercially practicable, to Easements created under Articles "H" and "IV" hereof, and for the furnishing of services under Article "VI" hereof. The architect shall furnish to each of the Owners and the holders of the First Mortgages a set of such plans and specifications for their approval. Unless the Owners otherwise agree, the contractor or contractors shall work under the supervisions of the architect, and the architect is hereby authorized and directed to instruct the Depository, from time to time, but only with the prior approval of the Owner in whose portion of the Total Property such repair and restoration is being performed and the Owner of the Commercial Property and the holders of the First Commercial Mortgage if the Commercial Building or any of the Commercial Easements Facilities are involved, and the holder of the First Residential Mortgage if the Residential Building or any of the Residential Easement Facilities are involved, as such repair and restoration progresses, to disburse, in accordance with Article "XVII" hereof, any Award paid to the Depository for application to the cost and expense of such repair and restoration.

14.5 The Award for any taking described in Section 14.4 shall first be used to pay for the repair and restoration. Any excess of the Award over the cost of repair and restoration shall then be allocated to each Owner in the same ratio as the apportionment of the Award to parties with

an interest in such Owner's portion of the Total Property in any judicial or administrative proceedings in connection with the taking, bears to the apportionment of the Award to parties with an interest in the other Owner's portions of the Total Property; provided, however, that the right of the Owner of the Commercial Property to receive such excess shall be subject to the rights of the holder of the First Commercial Mortgage under the First Commercial Mortgage with respect to any such excess, and the right of the Owner of the Residential Property to receive such excess shall be subject to the rights of the holder of the First Residential Mortgage under the First Residential Mortgage with respect to any such excess.

14.6 In the event of a taking of all or substantially all of the Total Property, the Award for such taking shall be allocated to the Owner of the Commercial Property and the Owner of the Residential Property in accordance with the appointment made in any final judicial or administrative proceedings in connection with the taking and paid to such Owners in accordance with the apportionment made in any final judicial or administrative proceedings in connection with the taking; provided, however, that the right of the Owner of the Commercial Property to receive any Award and payment shall be subject to the rights of the holder of the First Commercial Mortgage under the First Commercial Mortgage with respect to any such Award and payment, and the rights of the Owner of the Residential Property to receive any Award and payment shall be subject to the rights of the holder of the First Residential Mortgage under the First Residential Mortgage with respect to any such Award and payment.

14.7 To the fullest extent permitted by law, the provisions of this Article shall be controlling over the provisions of the Act insofar as the provisions of the Act purport to limit: (i) the obligation of the Unit Owners to repair or restore the Residential Property in the event of a taking; or (ii) use of the Award as provided in this Article.

Article XV

Limitation of Liability

Notwithstanding anything contained in this Declaration to the contrary, no judgment or decree enforcing obligations under this Declaration against any Owner of any portion of the Total Property shall be subject to execution on, or be a lien on any assets of such Owner other than the Owner's portion, estate or interest in the Total Property or insurance or condemnation proceeds relating thereto.

Article XVI

Depositary

16.1 A depositary (the "Depositary"), shall be appointed in the manner hereinafter provided to receive from the payor or payee hereof insurance proceeds and condemnation awards, to disburse such monies and to act otherwise in accordance with the terms and provisions of this Declaration. The Depositary appointed hereunder shall be the holder of the First Commercial Mortgage, or if no such holder of the First Commercial Mortgage then exists, or if such holder of the First Commercial Mortgage is not permitted by law to

act as Depositary, or is unwilling to so act, then the Depositary shall be appointed by the Owner of the Commercial Property and shall be one of the then ten (10) largest banks or trust companies (measured in terms of assets), with principal offices in Chicago, Illinois, or shall be Chicago Title and Trust Company. Depositary's reasonable fees and expenses for acting as Depositary shall be paid by the Owners, and Depositary may retain said fees and expenses, free of trust, from monies held by it. Any Depositary appointed to act hereunder shall execute an agreement with the Owners accepting said appointment and setting forth the terms and provisions of this Article.

16.2 The Depositary shall not be liable or accountable for any action taken or disbursement made on good faith by the Depositary, except that arising from its own gross negligence or willful misconduct. The Depositary's reliance upon advice of independent competent counsel shall, be conclusive evidence of good faith, but shall not be the only manner in which good faith may be shown. The Depositary shall have no affirmative obligation to prosecute a determination of the amount of, or to effect the collection of, any insurance proceeds or condemnation award or awards unless the Depositary shall have been given express written authorization from the Owners' provided that if only one Owner claims said insurance proceeds or condemnation award or awards, then said Owner alone may authorize the Depositary to so proceed.

16.3 The Depositary shall have no obligation to pay interest on any monies held by it unless the Depositary shall have been given an express written undertaking to do so; or, unless the Owners have requested in connection with a specified deposit of funds with the Depositary that the Depositary undertake to do so. However, if the monies on deposit are not held in an interest-bearing account pursuant to an agreement among the Depositary and the Owners, then, the Depositary, within thirty (30) days after request from either Owner given to the Depositary and to the other Owner, shall purchase with such monies, to the extent feasible, negotiable United States Government securities maturing within one (1) year from the date of purchase thereof, except insofar as it would, in the good faith judgment of the Depositary, be impracticable to invest in such securities by reason of any disbursement of such monies which the Depositary expects to make shortly thereafter, and the Depositary shall hold such securities in trust in accordance with the terms and provisions of this Declaration. Any interest paid or received by the Depositary on monies or securities held in trust, and any gain on the redemption or sale of any securities, shall be added to the monies or securities so held in trust by the Depositary. Unless the Depositary shall have undertaken to pay interest thereon, monies received by the Depositary pursuant to any of the provisions of this Declaration shall not be commingled with the Depositary's own funds and shall be held by the Depositary in trust for the uses and purposes herein provided.

16.4 In consideration of the services rendered by the Depositary, the Owners jointly and severally agree to indemnify and hold harmless the Depositary from any and all claims, loss, damage, liability or expense of any kind whatsoever (including, but not limited to reasonable attorneys' fees and expenses); incurred in the course of the Depositary's duties hereunder, or in the defense of any claim or claims made against the Depositary by reason

of its appointment hereunder, except where due to the negligence of the Depositary, or actions not taken in good faith by the Depositary.

16.5 The Depositary may resign by serving thirty (30) days written notice on the Owners. Within thirty (30) days after receipt of such notice, the Owner of the Commercial Property shall appoint a substitute who qualifies under Section 16.1 hereof, and the Depositary shall transfer all funds, together with copies of all records, held by it as Depositary to such substitute, at which time its duties as Depositary shall cease. If the Owner of the Commercial Property shall fail to appoint a substitute within thirty (30) days, then the Depositary may deposit such funds with either a court of competent jurisdiction or with a bank or trust company, or a title insurer in Chicago, which qualifies under Section 16.1 hereof.

Article XVII

Disbursement of Funds by Depositary

17.1 (A) Each request by the architect acting pursuant to the provisions of this Declaration for disbursement of insurance proceeds, any condemnation award or other funds for application to the cost or repair, restoration or demolition (the "Work"), shall be accompanied by a certificate of the architect setting forth the following:

(i) that the sum requested has either: (a) been paid by or on behalf of the Owner of the Commercial Property and/or the Owner of the Residential Property (the certificate shall specify the amount paid by each respective Owner); or (b) is justly due to contractors, subcontractors, materialmen, engineers, architects or other persons (whose names and addresses shall be stated), who have rendered or furnished certain services or materials for the work; such certificate shall also give a brief description of such services and materials and the principal subdivisions or categories thereof, the respective amounts so paid or due to each of said persons in respect thereof, and shall state the progress of the work up to the date of said certificate and any other information required by the mechanics' lien law of the State of Illinois and any title insurer affording coverage against mechanics' liens;

(ii) the sum requested, plus all sums previously disbursed, does not exceed the cost of the work actually in place up to the date of such certificate plus the cost of materials supplied and actually stored on site (which materials shall be adequately insured against fire, theft and other casualties for the benefit of the Owners and the holders of the First Mortgage);

(iii) that no part of the cost of the services and materials described in the certificate has been previously paid, or is the basis of any other previous or pending request for funds;

(iv) that the cost to complete the unfinished work will not exceed the funds or security therefor held by the Depositary after payment of the then current request; and

(v) that all the work so far completed is proper and of the quality and class at least equal to the original work, and as nearly as commercially practicable to the improvements

existing immediately prior to the casualty or condemnation (unless prohibited by law or unless the Owners agree otherwise), and is in accordance with the approved plans and specifications, and is in compliance with the other requirements of this Declaration.

(B) Upon compliance with the provisions of Section 17.1 (A), and

(i) upon receipt of contractors' and subcontractors' sworn statements required under the mechanics' lien law of the State of Illinois accompanied by partial or final waivers of lien, as appropriate; and

(ii) upon receipt of an official search by a title company or other evidence showing that there has not been filed with respect to the work on all or any portion of the Total Property any vendor's mechanic's laborer's, materialmen's or other similar lien, which has not been discharged of record, except such as will be discharged by payment of the amount then requested (in which event such payment shall be conditioned upon such discharge certificate being delivered simultaneously therewith), the Depository shall, out of the monies so held by the Depository, pay or cause to be paid to the Owners, contractors, subcontractors, materialmen, engineers, architects and other persons named in the architect's certificate and contractors' and subcontractors' sworn statements the respective amounts stated in said certificate and statements due them. Notwithstanding the foregoing, any of the Owners or any of the holders of the First Mortgages or the Depository may require that disbursements be made through the usual form of construction escrow then in use in Chicago, Illinois, with such changes as may be required to conform to the requirements or provisions of this Declaration. The Depository may rely conclusively, with respect to the information contained therein, on any certificate furnished by the Owners' architect to the Depository in accordance with the provisions of Section 17.1 and shall not be liable or accountable for any disbursement of funds made by it in reliance upon such certificate or authorization.

17.2 No contractor, subcontractor, materialman, engineer, architect or any other person whatsoever, other than the Owners and the holders of the First Mortgages, shall have any interest in or right to or lien upon any funds held by the Depository. The Owners may at any time provide for a different disposition of funds than that provided for in this Declaration, without the necessity of obtaining the consent of any contractor, subcontractor, materialman, engineer, architect, or any other person whatsoever. If at any time the Owners shall jointly instruct the Depository in writing with regard to the disbursement of any funds held by the Depository, then the Depository shall disburse such funds in accordance with said instructions and the Depository shall have no liability to anyone by reason of having so disbursed said funds in accordance with said instructions.

Article XVIII

Estoppels Certificate

18.1 Each of the Owners shall, from time to time, within ten (10) days after receipt of written request from the other Owner (subject to payment therefor pursuant to Section 18.2

hereof), execute, acknowledge and deliver to the other Owner, or to any existing or prospective purchaser or mortgagee designed by the other Owner, a certificate ("Estoppel Certificate") stating:

(A) that the terms and provisions of this Declaration are unmodified and are in full force and effect, or, if modified, identifying any such modifications;

(B) whether there is any existing default hereunder by the other Owner, and if so, specifying the nature and extent thereof;

(C) whether there are any sums (other than those arising out of the normal course of operation of the Building within the previous forty-five (45) days), which the Owner executing such Estoppel Certificate is entitled to receive or demand from any of the Owners, and if there is any such sum, specifying the nature and amount thereof;

(D) whether the Owner executing the Estoppel Certificate has performed or is performing work other than services pursuant to Article "VI" hereof, the cost of which such Owner is or will be entitled to charge in whole or in part to the other Owner under the provisions hereof, but has not yet charged to any such other Owner, and if there be any such work, specifying the nature and extent thereof;

(E) the nature and extent of any set-offs, claims, counterclaims or defenses then being asserted, or otherwise known by the Owner against the enforcement of the other Owner's obligations hereunder;

(F) the total amount of all liens being asserted by the Owner executing the Estoppel Certificate under the provisions of this Declaration describing the applicable provision or provisions and the details of any such lien claim;

(G) whether the Owner executing the Estoppel Certificate has requested that a matter be submitted to arbitration, which matter has not been discharged, released or otherwise resolved, and if so, a copy of any such notice or notices shall be delivered with the Estoppel Certificate;

(H) whether there has been any request for or recommendation of reallocation of costs pursuant to Article "VI" hereof which has not been included in any modification referred to in clause (A) above, and if so, setting forth any such request or recommendation;

(I) the nature of any arbitration proceeding or finding under Article "XII" made within the ninety (90) days preceding the date of such Estoppel Certificate;

(J) the current addresses to which notices given to the Owner executing such Estoppel Certificate are required to be delivered under Article "XXI" hereof: and

(K) such other matters as may be reasonably requested.

18.2 The Owner of the Commercial Property, if requested to issue an Estoppel Certificate in connection with the purchase and sale or financing of a Unit Ownership, may charge a reasonable fee for preparing, executing and delivering the Estoppel Certificate and may, in its sole discretion, limit to items (B) and (F) described above the statements made in the certificate.

18.3 So long as the Residential Property remains subject to the provisions of the Act: (a) an Estoppel Certificate requested from the Owner of the Residential Property shall be issued by the Association on behalf of the Unit Owners and the Association, and any Estoppel Certificate so issued shall be binding on the Unit Owners and the Association; and (b) Estoppel Certificate from the Owner of the Commercial Property may only be requested by the Association on behalf of a Unit Owner or Unit Owners and the Association.

Article XIX Master

Antenna System

The Owner of the Residential Building may install on the roof of the Building a satellite master antenna television system consisting of a satellite receiving station, antenna and other related equipment (the "Master Antenna System"), and/or a cable communications system for the purpose of receiving signals and transmitting such signals throughout the Building; provided, however, that the Owner of the Residential Building shall operate the Master Antenna System and individual satellite dishes serving any of the Units so that the same does not interfere with other receptions from or transmissions to other Facilities on the roof, including, without limitation, antennae, satellite dishes and other communication devices and equipment of the Commercial Property Owner (or its tenants) located on such roof. The Owner of the Residential Property shall be responsible for the Maintenance of the Master Antenna System and/or the cable system. The respective Owner shall be responsible to maintain any installed individual satellite dishes or other communications antenna serving its Property. Any usage charges applicable for tenants within the Commercial Building, availing themselves of the availability of a Master Antenna or cable television communications system shall be paid to the Owner of the Residential Property by said tenants.

Article XX

Alterations: Zoning

20.1 (A) Except as otherwise expressly required or permitted in **Articles "V", "VI", "X" and "XIV"** hereof, either Owner (hereinafter in this Article, "Altering Owner"), may, at the time, at such Altering Owner's sole cost and expense, make additions, improvements or alterations (hereinafter in this Article, "Alterations"), to the part of the Building within such Altering Owner's portion of the Building, provided that such Alterations comply with the provisions of this Section, and of the other provisions of this Article. Prohibitions and

restrictions on Alterations by the Owner of the Residential Property shall also apply to individual Unit Owners.

(B)(1) No alterations shall be made without the prior written consent of the other Owner if such Alterations will:

(i) degrade or diminish services to the Owner under Article "VI" hereof

(ii) increase the costs or expenses for which the other Owner is or would be responsible pursuant to Article "VI" hereof;

(iii) alter the facade of the Building (other than signage, exterior lighting, and related retail appurtenances installed by the Owner of the Commercial Property on the exterior of the Building for identification of the Building and occupants or tenants of the Commercial Building);

(2) No alterations shall be made by the Owner of the Residential Property without the consent of the Owner of the Commercial Property if such Alterations will:

(a) necessitate the erection of additional columns, bearing walls, or other structures upon or within the Commercial Property for the support of the Residential Building;

(b) obscure or impair the visibility of the Commercial Building and each tenant storefronts, signs and appurtenances.

(C) If, at any time, the Altering Owner proposes to make any Alterations which require or could possibly require the consent of the other Owner, or the holder of the First Mortgage of the other Owner, then before commencing or proceeding with such Alterations, the Altering Owner shall deliver to the other Owner and the holder of the First Mortgage with respect to such other Owner's Building (if required), a copy of the plans and specifications showing the proposed Alterations and a reference to this Section. If such other Owner and the holder of the First Mortgage with respect to such other Owner's Building (if required), consent to such Alterations or state that their consents are not required, the Altering Owner may proceed to make its Alterations substantially in accordance with said plans and specifications. The Owner or holder of the First Mortgage whose consent is requested shall make a good faith effort to respond to the Altering Owner within thirty (30) days after its receipt of said plans and specifications from the Altering Owner showing proposed Alterations.

If the Altering Owner has not requested the other Owner's consent to the proposed Alterations, and if, in the good faith opinion of the other Owner or of the holder of the First Mortgage with respect to such other Owner's Building, the Altering Owner has violated, or will violate the provisions of Section 20.1(A) or (B), then the other Owner or holder of the First Mortgage with respect to such other Owner's Building (the "Objecting Party"), believing a violation exists shall notify the Altering Owner of its opinion that the Alterations or proposed Alterations violate or will violate the provisions of Section 20.1(A) or (B) hereof, and shall specify the respect or respects in which its provisions are or will be

violated. If the Objecting Party in good faith asserts violation of Section 20.1(A) or (B), then the Altering Owner shall not commence with the Alterations or proceed with the Alterations, if already commenced, until the matter has been resolved. In addition to any other legal or equitable rights or remedies to which the Objecting Party may be entitled by reason of an Altering Owner's violation or likely violation of the provisions of this Section, the Objecting Party shall be entitled to seek and obtain injunctive relief to enjoin any such violation.

(D) If any matter arises between the Owners with respect to whether any Alterations or proposed Alterations violate the provisions of Section 20.1 (A) or (B), then either Owner may submit such matter to an independent architect selected by the Owners for its determination as to whether the Alterations or proposed Alterations violate the provisions of Section 20.1(A) or (B) hereof, which determination shall be final and binding on the Owners and the holder of the First Mortgage.

(E) The Owners, in making Alterations, (i) perform all work in a first-class workmanlike manner and in accordance with good construction practices; (ii) comply with all applicable federal, state, local and other governmental and quasi-governmental laws, statutes, ordinances, codes, rules, regulations and orders, including, without limitation, the City of Chicago Building Code; and (iii) comply with all of the applicable provisions of this Declaration. Each Owner shall, to the extent reasonably practicable, make Alterations within its portion of the Building in such a manner as to minimize any noise, vibration, particulates and dust infiltration or other disturbance which would disturb an occupant or occupants of the other portions of the Building.

20.2 Neither Owner shall make any Alterations, allow any use of or undertake any other action relating to their respective portions of the Total Property which would violate the provisions of: (i) the zoning ordinance applicable to the Total Parcel, as said ordinance may be amended from time to time; or (ii) any health codes, building codes, fire codes, or environmental and life safety regulations. In addition, Other Owner who seeks to make alterations which would require structural changes to the Total Property must obtain the consent of the other Owner, absent said structural changes or alterations which are specifically provided for in these documents the Other Owner need not obtain said consent.

20.3 Applications for building permits to make Alterations which comply with the provisions of this Article shall be filed and processed by the Altering Owner without the joinder of the other Owner, in such application, unless the City of Chicago or other government agency having jurisdiction thereof requires joinder of the other Owner. If joinder by the other Owner not making Alterations is so required, said Owner shall cooperate in executing such application, or other instruments, as may be necessary to obtain the building permit; provided, however, the Altering Owner shall indemnify and hold harmless the other Owner from and against any and all loss, liability, claims, judgments, costs and expenses arising out of the other Owner's execution of the application, permit or other instrument. If the Owner fails to execute said application or instruments when required hereunder to do so, the Altering Owner is hereby irrevocably appointed attorney-in-fact of the other Owner (such power of attorney being coupled with an interest), to execute said application or instruments on behalf of the Altering Owner.

20.4 An Owner performing any work required or provided for under this Declaration shall include in any construction contract a provision pursuant to which the contractor either: i) recognizes the separate ownership of the Residential Property and Commercial Property and agrees that any lien rights which the contractor or subcontractors have under the mechanics' lien laws of the State of Illinois shall only be enforceable against the portion of the Total Property owned by the Altering Owner; or (ii) agrees that no lien or claim may be filed or maintained by such contractor or any subcontractors and agrees to comply with the provisions of the mechanics' lien law of the State of Illinois in connection with giving notice of such "no lien" provision.

20.5 (A) The Commercial Property and Residential Property are now and shall continue to be combined and treated as one zoning lot for the purposes of complying with the zoning ordinance applicable to the Total Property. Neither Owner shall do or suffer anything to be done to cause the Total Property to become in violation of applicable zoning laws and ordinances.

(B) Applications for variations in the application of the provisions of the zoning ordinance applicable to the Total Property may be filed and processed solely by the Owner of the portion of the Total Property directly affected by such application and shall not require the joinder of the other Owner. In addition, the Owner of the Commercial Property shall have the right to file and process applications to amend the zoning ordinance applicable to the Total Property to increase the Gross Floor Area of the improvements which may be constructed on the Commercial Property, without the joinder of the other Owner. The term "Floor Area" shall have the same definition as that contained in the current City of Chicago Zoning Ordinance.

(C) Each Owner shall execute such applications or other instruments as may be necessary to obtain any zoning variation or amendment conforming with the provisions of this Section; provided, however, the Owner requesting such zoning variation or amendment shall indemnify and hold harmless the other Owner from and against any and all loss, liability, claims, judgments, costs and expenses arising out of the other Owner's execution of such applications or other instruments. If the Owner fails to execute said applications or instruments when required hereunder to do so, the Owner requesting such zoning variation or amendment is hereby irrevocably appointed attorney-in-fact of such Owner (such power or attorney being coupled with an interest), to execute said application or instruments on behalf of such Owner.

Article XXI

Notices

21.1 All notices, demands, elections, or other communications required, permitted or desired to be served hereunder shall be in writing and shall be delivered in person or mailed as certified or registered mail, postage prepaid, return receipt, requested, addressed as below

stated (such address to be amended as required to reflect any change in ownership):

To the Owner of
The Commercial Property

1 -15 8th Place
Calumet City, Illinois 60409
Attention: Robert C Ranquist III

To The Owner of
The Residential Property
1-158th Place
Calumet City, IL 60409

Board of Directors of the
2028 West Division Condominiums

21.2 So long as the Residential Property remains subject to the Act: (a) the Owner of the Commercial Property may, but shall not be obligated to give personal notice to any Unit Owner, notice to the Association hereby being deemed sufficient; and (b) the Association alone shall be empowered to give notice on behalf of any or all Unit Owners under this Declaration, which notice shall be binding on the Unit Owners.

21.3 Any notice, demand, election or other communication delivered as aforesaid shall be deemed received when delivered and any notice, demand, election or other communication mailed as aforesaid shall be deemed received three (3) business days after deposit in the United State mail, or upon actual receipt, whichever is earlier. Addresses for service of notice may be changed by written notice served as hereinabove provided at least ten (10) days prior to the effective date of any such change. Nothing herein contained, however, shall be construed to preclude service of any notice, demand, election or other communication in the same manner that service of summons or legal process may be made.

Article XXII

General

22.1 In fulfilling obligations and exercising rights under this Declaration, each Owner and Unit Owner shall cooperate with each other to promote the efficient operation of each respective portion of the Total Property and the harmonious relationship amongst them and to protect the value of each of their respective portion, estate or interest in the Total Property. To that end, each Owner shall share information which it possesses relating to matters which are the subject of this Declaration, except such information as such Owner may reasonably deem confidential or which may be the subject of litigation and which such Owner is prohibited from revealing pursuant to court order. From time to time, after the date hereof, each Owner shall furnish, execute and acknowledge, without charge (except where elsewhere provided herein): (i) such other instruments, documents, materials and information as the other Owner may reasonably request in order to confirm to requesting Owner the benefits contemplated hereby, but only so long as any such request does not restrict or abridge the benefits granted the other Owner hereunder; and (ii) such grants of easements to and agreements with utility companies as the other Owner may reasonably request in order to enable such utility company to furnish utility services as required by the requesting Owner, provided that the holders of the First Mortgages have first consented in writing to such

Easements.

22.2 The illegality, invalidity or unenforceability of any covenant, restriction, condition, limitation or any other provision of this Declaration shall not impair or affect in any manner the validity, enforceability or effect of the other provisions of this Declaration.

22.3 The headings of Articles in this Declaration are for convenience of reference only, and shall not in any way limit or define the content, substance or effect of the Articles.

22.4 This Declaration may be amended or terminated only by an instrument signed by the then Owner of the Commercial Property and the then Owner of the Residential Property. Notwithstanding the foregoing, until control of the Association has been turned over by Declarant to the Owner of the Residential Property, Declarant reserves the right and power to record a special amendment to this Declaration (a "Special Amendment") at any time and from time to time (i) to bring this Declaration into compliance with the law, (ii) to correct errors, ambiguities, inconsistencies or omissions in this Declaration or any Exhibit, supplement or amendment thereto, or (iii) to make any other amendments that do not have a material adverse effect on the Owner of the Residential Property or the Owner of the Commercial Property. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of the Owners as attorney-in fact. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and record Special Amendments, the right of the Declarant to act pursuant to rights reserved or granted under this Section shall terminate at such time as the Declarant no longer holds or controls title to a portion of the Residential Property. So long as the Residential Property is submitted to the Act, the Association shall, by its authorized officers, execute all amendments to or any termination of this Declaration on behalf of all Unit Owners and the Owner of the Residential Property, which amendments or termination shall be binding on all Unit Owners and the Owner of the Residential Property. Any amendment to or termination of this Declaration shall be recorded with the Recorder.

22.5 Except for the perpetual Easements provided for under this Declaration, and except for the provisions of Section 20.5(A) hereof, providing for one zoning lot, which provisions shall be perpetual, the covenants, conditions and restrictions contained in this Declaration shall be enforceable by the Owners and their respective successors and assigns for a term of forty (40) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended without further act or deed of the Owners, except as may be required by law, for successive periods of ten (10) years, subject to amendment or termination as hereinabove set forth in Section 22.4.

22.6 The provisions of this Declaration shall be construed to the end that the Building shall remain first-class residential and commercial property.

22.7 Terms used in this Declaration, unless elsewhere defined in this Declaration, shall

have the meanings set forth in Article "I".

22.8 Easements created hereunder shall not be presumed abandoned by non-use or the occurrence of damage or destruction of a portion of the Total Property subject to an Easement unless the Owner benefited by such Easement states in writing its intention to abandon the Easement; provided, that if the benefited Owner is the Owner of the Commercial Property, then the consent of the holder of the First Commercial Mortgage shall also be required with respect to any such abandonment and if the benefited Owner is the Owner of the Residential Property, then the consent of the holder of the First Residential Mortgage shall also be required with respect to such abandonment.

22.9 Except as otherwise specifically set forth herein, all the Easements, rights, covenants, agreements, reservations, restrictions and conditions herein contained touch and concern the land and shall run with the land and shall inure to the benefit of and be binding upon the Owners, and each subsequent holders of any interest in any portion of the Total Property and their grantees, mortgagees, heirs, successor, personal representatives and assigns with the same full force and effect for all purposes as though set forth at length in each and every conveyance, or in any mortgage or other evidence of obligation to the Easements and covenants herein described shall be sufficient to create and reserve such Easements and covenants to the respective grantees or mortgagees of such parcels as fully and completely as though said Easements and covenants were fully recited and set forth in their entirety in any such documents.

22.10 The parties hereto acknowledge that this Declaration and all other instruments in connection herewith have been negotiated, executed and delivered in the City of Chicago, County of Cook and State of Illinois. This Declaration and said other instruments shall, in all respects, be governed, construed, applied and enforced in accordance with the laws of the State of Illinois, including without limitation, matters affecting title to all real property described herein.

22.11 This Declaration is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary (except the holders of the First Mortgages), under any statutes, laws, codes, ordinances, rules, regulations, orders, decrees or otherwise.

22.12 Each provision of the Recitals to this Declaration and each Exhibit and Appendix attached hereto is hereby incorporated in this Declaration and is an integral part hereof.

22.13 No provision of this Declaration shall be deemed to have been waived by any party hereto unless such waiver is in writing signed by the party making such waiver. The failure of any party subject hereto to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this Declaration, shall not be deemed a waiver thereof, or prevent a subsequent act, which would have originally constituted a violation from having all the force and effect of an original violation.

22.14 If and to the extent that any of the covenants, easements or other provisions of this

Declaration would otherwise be unlawful or void for violation of: (a) the rule against perpetuities; (b) the rule restricting restraints on alienation; or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants, easements or other provisions may be valid, then the provision in question shall continue and endure only until the expiration of a period of twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of Robert C Ranquist III, living at the date of this Declaration.

22.15 If it becomes clear that additional easements among the portions of the Total Property are necessary or desirable to effectuate the purposes of this Declaration, provided said proposed additional easements will not materially interfere with the use and occupancy of any portion of the Building, materially affect access to, or operation of any portion of the Building, or materially increase the operating costs of, or create any additional expense for any of the Owners, Declarant hereby reserves the right to determine, create and grant such additional easements as are necessary. In the event any such new easements are created, this Declaration and the Exhibits hereto shall be amended by designating and describing said easements and such amended Declaration shall be signed by the Declarant to effectuate the grant or creation of such additional easements, and shall be recorded with the Recorder and shall have the same force, effect and priority as if such new easements were originally contained herein.

22.16 Without limiting the scope of Section 22.15 hereof, it is understood that the Building is not wholly completed, and that in the event the structural components of the Building or any Facilities, or any boundaries of the Commercial Property or of the Residential Property are not in place on the date of recording of this Declaration, then Declarant reserves the right to and shall cause to be recorded from time to time until all of said structural components, Facilities and boundaries are in place, amendments of this Declaration identifying or describing any such structural components of Facilities, and/or amending the legal descriptions contained in this Declaration. Declarant may also from time to time amend this Declaration to: (i) conform the Building and such component and Facilities to "as built" condition; and (ii) correct clerical or typographical errors in this Declaration or any Exhibit hereto, or any supplement or amendment thereto.

22.17 All consents and approvals of any of the Owners or any of the holders of the First Mortgages shall not be unreasonably withheld or delayed. Any disapproval of or failure to consent to any matter hereunder shall be in writing and shall state in reasonable detail the reason or reasons for decline.

22.18 Notwithstanding any ownership, directly or indirectly, in all or any portion of the Commercial Property or Residential Property in one person or entity, it is the intent and understanding that all such properties and estates shall remain separate and distinct from each other and shall not be merged into such other estates and properties by reason of such common ownership. A merger of any of such estates and properties can only be effected by a written instrument signed by the then owner of such estates and properties and by each mortgagee of such estates and properties and recorded in the office of the Recorder.

22.19 Each holder of the First Mortgages are given the right, but not the obligation, to act on behalf of the Owner whose interest is mortgaged to it, to cure defaults of such Owner within any applicable cure period set forth herein, and each Owner agrees to accept performance *by* such holders of the First Mortgages.

Signature Page Follows

**SIGNATURE PAGE TO DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR 2028 WEST DIVISION CHICAGO,
ILLINOIS**

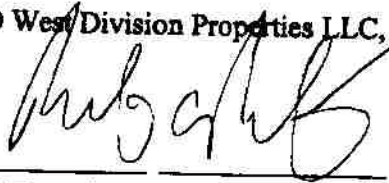
IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed as of
the day and year first written above.

2028-30 West Division Properties LLC, an Illinois Limited Liability Company

By _____

Robert C Ranquist III

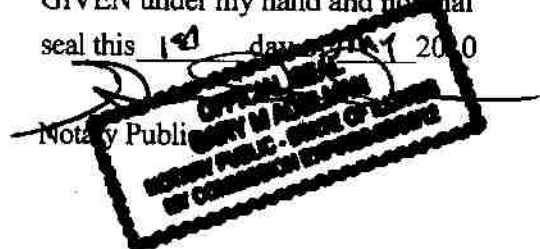
Its Manager

A handwritten signature in black ink, appearing to read "Robert C Ranquist III", is written over a horizontal line. The signature is cursive and somewhat stylized.

STATE OF ILLINOIS)
)
COUNTY OF LAKE)

I, Gary M Adelman a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY the ROBERT C RANQUIST III, as Manager of 2028 30 West Division Properties LLC, an Illinois Limited Liability Company, personally known to me to be the same person whose name is subscribed to the foregoing Declaration, appeared before me this day in person and that he signed, sealed and delivered the said instrument, on behalf of the limited liability company and as his free and voluntary act, for the uses and purposes set forth.

GIVEN under my hand and notarial seal this 14 day of 11 2010



Notary Public

CONSENT TO RECORD
2028 WEST DIVISION CONDOMINIUM
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS

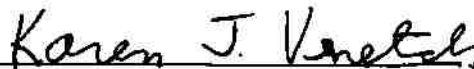
The undersigned David Pinkerton, as Executive Vice President, of Lakeside Bank, hereby states that he has reviewed the Declaration of Covenants, Conditions, Restrictions and Easements for 2018 West Division Condominium, and as said executive vice president consents to the recording of said document

Lakeside Bank


By David Pinkerton
Executive Vice President

State of Illinois)
)
County of Cook)

I KAREN J. VENETCH, a Notary Public in and for the County and State aforesaid DOES HEREBY CERTIFY that David Pinkerton, Executive Vice President of Lakeside Bank an Illinois financial institution is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me on this day in person and severally acknowledged that he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act and deed of said Lakeside Bank for the uses and purposes therein set forth.


NOTARY PUBLIC

Given under my hand and official seal this
17th day of FEBRUARY 2011

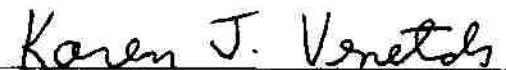

NOTARY PUBLIC



EXHIBIT A

LEGAL DESCRIPTION OF ENTIRE PROPERTY

LOTS 14 & 15 IN BLOCK 2 IN W. D. KERFOOT'S SUBDIVISION OF 4 ACRES IN THE SOUTHEAST CORNER OF THE NORTHWEST 1/4 OF SECTION 6, OWNERSHIP 39, NORTH RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PIN

17-06-129-028-0000

17-06-129-036-0000

EXHIBIT B

LEGAL DESCRIPTION OF COMMERCIAL SPACE (EXCLUDED FROM CONDOMINIUM):

THAT PART OF LOTS 14 AND 15 IN BLOCK 2 IN W. D. KERFOOT'S SUBDIVISION OF 4 ACRES IN THE SOUTHEAST CORNER OF THE NORTHWEST ¼ OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, KNOWN AS COMMERCIAL, LYING AT AND ABOVE A HORIZONTAL PLANE AT ELEVATION +17.40 FEET (CITY OF CHICAGO DATUM) AND LYING AT AND BELOW A HORIZONTAL PLANE AT ELEVATION +28.45 FEET (CITY OF CHICAGO DATUM), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT IN THE FINISHED SURFACE OF INTERIOR WALLS OF 4 STORY CONC. BLOCK BUILDING (COMMONLY KNOWN AS 2028-30 W. DIVISION ST.), SAID POINT BEING 1.90 FEET NORTH AND 6.87 FEET WEST FROM THE SOUTH EAST PROPERTY CORNER; THENCE WEST 4.39 FEET; THENCE SOUTH 1.00 FEET; THENCE WEST 5.17 FEET; THENCE NORTH 1.00 FEET; THENCE WEST 0.63 FEET; THENCE SOUTH 1.00 FEET; THENCE WEST 16.03 FEET; THENCE NORTH 1.00 FEET; THENCE WEST 0.63 FEET; THENCE SOUTH 1.00 FEET; THENCE WEST 5.21 FEET; THENCE NORTH 1.00 FEET; THENCE WEST 4.78 FEET; THENCE NORTH 27.68 FEET; THENCE EAST 10.28 FEET; THENCE SOUTH 1.00 FEET; THENCE EAST 8.90 FEET; THENCE NORTH 6.69 FEET; THENCE EAST 5.21 FEET; THENCE NORTH 1.01 FEET; THENCE EAST 3.27 FEET; THENCE SOUTH 8.84 FEET; THENCE EAST 0.77 FEET; THENCE NORTH 9.13 FEET; THENCE EAST 6.35 FEET; THENCE SOUTH 9.13 FEET; THENCE EAST 2.10 FEET; THENCE SOUTH 25.54 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

(ALL CALLS ARE DESCRIBED ALONG THE FINISHED INTERIOR WALLS).

EXHIBIT C

LEGAL DESCRIPTION OF THE PROPERTY:

LOTS 14 AND 15 IN BLOCK 2 OF W. D. KERFOOT'S SUBDIVISION OF 4 ACRES IN THE SOUTHEAST CORNER OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, AS PER PLAT RECORDED IN BOOK 3 OF PLATS PAGE 27, IN COOK COUNTY, ILLINOIS.

EXCEPTING FROM THE ABOVE MENTIONED PARCELS THAT PART OF LOTS 14 AND 15 IN BLOCK 2 IN W. D. KERFOOT'S SUBDIVISION OF 4 ACRES IN THE SOUTHEAST CORNER OF THE

NORTHWEST $\frac{1}{4}$ OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, KNOWN AS COMMERCIAL, LYING AT AND ABOVE A HORIZONTAL PLANE AT ELEVATION +17.40 FEET (CITY OF CHICAGO DATUM) AND LYING AT AND BELOW A HORIZONTAL PLANE AT ELEVATION +28.45 FEET (CITY OF CHICAGO DATUM), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT IN THE FINISHED SURFACE OF INTERIOR WALLS OF 4 STORY CONC. BLOCK BUILDING (COMMONLY KNOWN AS 2028-30 W. DIVISION ST.), SAID POINT BEING 1.90 FEET NORTH AND 6.87 FEET WEST FROM THE SOUTH EAST PROPERTY CORNER; THENCE WEST 4.39 FEET; THENCE SOUTH 1.00 FEET; THENCE WEST 5.17 FEET; THENCE NORTH 1.00 FEET; THENCE WEST 0.63 FEET; THENCE SOUTH 1.00 FEET; THENCE WEST 16.03 FEET; THENCE NORTH 1.00 FEET; THENCE WEST 0.63 FEET; THENCE SOUTH 1.00 FEET; THENCE WEST 5.21 FEET; THENCE NORTH 1.00 FEET; THENCE WEST 4.78 FEET; THENCE NORTH 27.68 FEET; THENCE EAST 10.28 FEET; THENCE SOUTH 1.00 FEET; THENCE EAST 8.90 FEET; THENCE NORTH 6.69 FEET; THENCE EAST 5.21 FEET; THENCE NORTH 1.01 FEET; THENCE EAST 3.27 FEET; THENCE SOUTH 8.84 FEET; THENCE EAST 0.77 FEET; THENCE NORTH 9.13 FEET; THENCE EAST 6.35 FEET; THENCE SOUTH 9.13 FEET; THENCE EAST 2.10 FEET; THENCE SOUTH 25.54 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

(ALL CALLS ARE DESCRIBED ALONG THE FINISHED INTERIOR WALLS).

This Document Prepared by
and Mail to

Gary M Adelman
2245 W Huron St
Chicago, Illinois 60612



Doc#: 1108318033 Fee: \$282.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/04/2011 01:50 PM Pg: 0

2028 WEST DIVISION CONDOMINIUM
DECLARATION OF CONDOMINIUM
OWNERSHIP

Unit 201
Unit 202
Unit 301
Unit 302
Unit 401
Unit 402
PU1
PU2
PU3
PU4
PU5
PU6
PU7
PU8

PIN 17-06-129-028-0000
17-06-129-036-0000

**2028 WEST DIVISION PROPERTIES CONDOMINIUMS
DECLARATION OF CONDOMINIUM OWNERSHIP**

THIS DECLARATION OF CONDOMINIUM OWNERSHIP is made and executed effectively this 1st day of May 2010, by 2028 30 West Division Properties LLC (hereinafter the Declarant, an Illinois limited company.

Recitals:

A Declarant is the owner of the fee simple title to Real Estate (the "Real Estate") described in Exhibit "A" attached hereto and incorporated herein as part of this Declaration, which Real Estate is located in the City of Chicago, Cook County, State of Illinois,

B Declarant desires by execution of the Declaration hereby makes the Real Estate and all Improvements subject to condominium ownership according to the provisions of and the terms and conditions specifically set forth in this Declaration, such property shall hence forth be known and referred to as "2028 West Division Condominiums."

C The Real Estate is improved with a building containing six (6) residential condominium units, eight (8) indoor parking spaces. This constitutes the area described herein as the Real Estate. Within said building on the first floor, but excluded from the Real Estate, are areas for retail and office use. The rights, obligations and duties of the owners of the Real Estate to and from the owner of the retail and office space are set forth in a Declaration of Covenants, Conditions, Restrictions and Easements dated May 1, 2010, and recorded in the office of the Cook County, Illinois, Recorder of Deeds immediately subsequent to the recording of this Declaration.

D Declarant desires to establish for its own benefit and for the mutual benefit of all future owners or occupants of the Real Estate (as hereinafter defined) or any part thereof and intends that all such future owners, occupants, as, and any other persons hereinafter acquiring any interest in the Real Estate shall hold such interest subject to, certain rights, easements and privileges in, over and upon the Real Estate and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof, as hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the co-operative aspects of residence on the Real Estate, and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Real Estate;

NOW, THEREFORE, Declarant, as the legal title holder of the Real Estate, and for the purposes set forth above, declares as follows:

ARTICLE I

Definitions

Section 1.1. Definitions. As used herein, unless the context otherwise requires:

1.1.01. **Act:** "Act" means The Condominium Property Act of the State of Illinois, as amended from time to time.

1.1.02 **Association:** "Association" means the 2028 West Division Condominium Association, Inc., an Illinois not-for-profit corporation, including its successors and assigns, the principal office of which is 2245 W Huron Street, Chicago, Illinois 600612. Copies of the By-Laws of which corporation are marked as Exhibit D attached hereto and incorporated herein by reference

1.1.03. **Balconies:** "Balconies" means those attachments to the outside walls of the Building which are designated as Balconies on the Floor Plans, which shall be Limited Common Elements appurtenant to the Building to which they are attached.

1.1.04. **Board:** "Board" means the board of directors as the governing body of the Association, as constituted at any time or from time to time.

1.1.05. **Building:** "Building" means the structures located on the Real Estate which consists of a residential building containing 6 residential units and 8 parking units and appurtenant facilities.

1.1.6. **By-Laws:** "By-Laws" means the By-Laws of the Association providing for the administration and management of the 2028 West Division Condominium as required by the Law, a true copy of which is marked as Exhibit D, attached to this Declaration and is recorded with Recorder of Cook County, Illinois.

1.1.7. **Common Elements:** "Common Elements" means all areas within the Real Estate of the 2028 West Division Condominiums, except the Units.

1.1.8. **Common Expenses:** "Common Expenses" means all sums lawfully assessed against Owners or Co-Owners for the expenses of administration, including management and professional services, maintenance, operation, repair, and replacement of the Common Elements; the cost of additions, alterations, or improvements to the Common Elements; the cost of insurance required or permitted to be obtained by Board; utility expenses for the Common Elements; any expenses designated as Common Expenses by the Law, this Declaration, or the By-Laws; if not separately metered or charged to the Unit Owners, the cost of waste removal, scavenger services, water, sewer, or other necessary utility services to the Buildings; and any other expenses lawfully incurred by or on behalf of the Association for the common benefit of all of the Unit Owners.

1.1.9. **Declarant:** "Declarant" means 2028 30 West Division Properties LLC, an Illinois limited liability company, or any successor to it in title to the Real Estate, or any mortgagee acquiring title to all or any portion of the Property pursuant to a mortgage executed by the Declarant.

1.1.10. **Declaration:** "Declaration" means this instrument entitled 2028 West Division Condominiums Declaration of Condominium Ownership, including all

Exhibits attached hereto, as amended and/or supplemented.

1.1.11. **First Meeting:** "First Meeting" means the first meeting of the Board occurring after Relinquish Date.

1.1.12. **First Mortgage:** "First Mortgage" means a bona fide first mortgage encumbering a Unit Ownership.

1.1.13. **First Mortgagee:** "First Mortgagee" means the holder of a First Mortgage lien on all or any part of the Real Estate and the holder of the first mortgage lien on a Unit which has given written notice of such mortgage to the Association.

1.1.14 **Parking Unit:** "Parking Unit" means a portion of the Building which is delineated and designated on the Floor Plans as a Parking Unit. There are eight (8) Parking Units. Each Parking Unit shall be designated by an identifying term as noted on Exhibit B hereto and shall consist of the space enclosed and bounded by planes constituting the boundaries of such Parking Unit as shown on Exhibit B attached hereto and the improvements therein. A Parking Unit shall not include the following, wherever located: (a) any structural components of the Buildings; or (b) any component of a system that serves more than one Unit where such component is an integral part of such system and is not intended to serve the Parking Unit exclusively. The legal description of each Parking Unit shall refer to the identifying number or symbol shown on Exhibit B attached hereto and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. Also, the surface of any parking space constituting a Parking Unit shall be a Common Element and shall accordingly be maintained by the Association pursuant to Section 3.7.

1.1.15. **Limited Common Elements:** "Limited Common Elements" means that portion of the Common Elements which is designated by this Declaration or the Floor Plans as being a Limited Common Elements appurtenant to and for the exclusive use of Unit Owner or Co-Owner of an individual Unit, including as Limited Common Elements, the following, if any: (a) perimeter doors and windows which serve the Unit, (b) the interior surface of perimeter walls, ceilings and floors which define the boundary planes of the Unit, and (c) any system or component part thereof which serves the Unit exclusively to the extent that such system or component part is located outside the boundaries of the Unit. Any patio deck or balcony adjoining or serving a Unit and any storage locker designated for use as of a Unit Owner at any time shall be a Limited Common Element appurtenant to such Unit.

1.1.16. **Person:** "Person" means a natural individual, corporation, partnership, trustee other legal entity or legal combination thereof capable of holding title to real property.

1.1.17. **Real Estate:** "Real Estate" means the land as described in Exhibit A, attached hereto and incorporated herein.

1.1.18. **Relinquish Date:** "Relinquish Date" means the date on which any one of the following shall first occur: (a) four (4) months after Declarant has conveyed seventy-five percent of the Units to purchasers for value; (b) the expiration of three (3) years from the date of the Recording of this Declaration; or (c) The date designated in written notice from the Declarant to all of the Unit Owners as being the Relinquish Date.

1.1.19. **Replacement Reserve:** "Replacement Reserve" means the fund to be held by the Association in accordance with the Law for the maintenance, repair, and replacement of the Common Elements.

1.1.20. Intentionally Omitted.

1.1.21. **Undivided Interest:** "Undivided Interest" means the percentage ownership interest in the fee simple title of the Common Elements appurtenant to a Unit for all purposes, including voting, as allocated on Exhibit C hereto from time to time. The Undivided Interest shall be expressed as a percentage of the whole and shall be based on the value of each Unit in relation to the value of all Units in the 2028 West Division Condominiums.

1.1.22. **Unit:** "Unit" means a part of the 2028 West Division Condominiums, including one or more rooms, designed or intended for independent residential use or garage parking use, as applicable (but not including surface parking use). Each Unit shall be designated by an identifying term (number, letter or word or combination thereof) and shall consist of the space enclosed and bounded by the planes constituting the boundaries of such Unit as shown on Exhibit B attached hereto and the fixtures and improvements located wholly within such boundaries which serve such Unit exclusively. A Unit shall not include the following, wherever located: (a) any structural components of the Buildings; or (b) any component of a system that serves more than one Unit where such component is an integral part of such system and is not intended to serve the Unit exclusively. Each Unit is identified on Exhibit B by a distinguishing number or other symbol. The legal description of each Unit shall refer to such identifying number or symbol and every such description shall be deemed good and sufficient for all purposes, as provided in the Act.

1.1.23. **Owner or Co-Owner:** "Owner" or "Co-Owner" means a Record owner, whether one or more Persons, of fee simple title to any Unit, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.1.24. **Unit Ownership:** "Unit Ownership" means a part of the 2028 West Division Condominiums consisting of one (1) Unit and its Undivided Interest.

1.1.25. **Voting Member:** "Voting Member" means an Owner or Co-Owner who shall be entitled to vote in person or by proxy at meetings of the Unit Owners.

1.1.26. **Working Capital Fund:** "Working Capital Fund" means a fund created through the collection of funds at the time of conveyance of Units from the

Declarant to purchasers for value.

ARTICLE II

Submission Act

2.1. Submission to Act: Declarant as the legal title holder in fee simple of the Real Estate by recording this Declaration does hereby submit the Real Estate to the provisions of the Act. Each person owning a Unit shall comply with the provisions of this Declaration and of the Act as well as other laws, ordinances and regulations applicable to condominium ownership in regard to the Real Estate. This Declaration is subordinate to ordinances and regulations enacted and promulgated by the City of Chicago.

2.2. Plat: The Plat attached hereto as Exhibit B sets forth the measurements, elevations, locations and other data as required by the Act with respect to the Real Estate, the Building and each Unit described by its horizontal and vertical dimensions. Declarant reserves the right as attorney in fact for each Unit Owner and their mortgagee to correct any errors in the information incorporated in the Plat to correctly describe the Real Estate, Buildings and/or Units.

2.3. Conveyances: Unit owners may sell, transfer and convey their Unit and/or Parking Unit without restrictions subject to the terms of this Declaration, the Act, the By-laws and the administrative rules of the Board consistent herewith. The legal description used to convey Units, or an interest therein shall refer to the Unit designation shown on the Plat. Except as provided by the Act, no Unit Owner shall by deed, plat, court decree or otherwise combine, subdivide or in any manner cause their Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Plat.

2.4 Use of Units:

(a) Each Unit shall be used in conformity with all land use and zoning restrictions and commitments. No industrial business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the 2028 West Division Condominiums; provided, that, no Unit Resident shall be precluded with respect to their Unit from (i) maintaining a personal professional library, (ii) keeping their personal business records or accounts therein, or (iii) handling their personal business or professional calls or correspondence therefrom.

(b) No use of a Unit or any other part of 2028 West Division Condominiums shall be made or permitted if it violates any law or zoning or land use restrictions or covenant.

(c) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the 2028 West Division Condominiums or contents thereof, applicable for residential use, without prior written consent of the

Board. No Unit Owner shall permit anything to be done or kept in their Unit or in the Common Elements which will result in the cancellation of insurance on the 2028 West Division Condominiums, or contents thereof, or which would be in violation of any law.

(d) No "For Sale," "For Rent," or any other sign, pictures, banners or posters of any kind or other form of solicitation or advertising or window display shall be maintained or permitted on the 2028 West Division Condominiums without the prior written approval of the Board.

(e) No more than two (2) pets may be kept in any Unit. No Unit Resident shall be permitted to keep or raise any such pet for commercial purposes. The Board may from time to time adopt rules and regulations governing the keeping of pets in the Units. Such rules and regulations may prohibit certain species of pets or pets of more than a specified weight from being kept in the Units. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from a Unit upon three (3) days written notice from the Board to the Unit Owner of the Unit containing such pet, and the decision of the Board shall be final.

(f) No noxious or offensive activity shall be carried on in the 2028 West Division Condominiums and nothing shall be done in the 2028 West Division Condominium, either willfully or negligently, which may be or become an annoyance or nuisance to the Unit Owners or occupants of the Units.

(g) Parking Units shall be used for the storage of one vehicle only.

2.5. Encroachment: In the event, by reason of the construction, repair, reconstruction, settlement or shifting of the 2028 West Division Condominiums or any part thereof, (i) any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or (ii) any part of any Unit encroaches or shall hereafter encroach upon any part of any other Unit or the Common Elements, then, in any such case, there shall be deemed to be an easement in favor of the Unit Owners and Association for the maintenance and use of any of the Common Elements which may encroach upon a Unit and there shall be deemed to be an easement in favor of any Unit Owner for the exclusive use of any part of their Unit which shall encroach upon the Common Elements or any other Unit; provided, however, that in no event shall an easement for any encroachment be created in favor of any Unit Owner if such encroachment occurred due to the intentional, willful or negligent conduct of such Unit Owner or their agent.

2.6 Easements and Utility Easements:

(a) Each Unit Owner, as well as any tenant, guest, employee and invitees of the Owner or Co-Owner and the Declarant, shall have a nonexclusive easement for vehicular and pedestrian access over and across driveways and walkways from time to time located on the 2028 West Division Condominiums, including, without limitation, those driveways and walkways which provide access to public ways.

(b) All public and private utilities serving the 2028 West Division Condominium hereby granted the right to lay, construct, renew, replace, repair, operate,

and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through those portions of the 2028 West Division Condominiums which are not improved with Buildings for the purpose of providing utility services to the 2028 West Division Condominiums.

(c) Any governmental authority, including but not limited to police, fire and other emergency vehicles, which has jurisdiction over the 2028 West Division Condominiums or which undertakes to provide services (including, without limitation, trash and garbage collection and U.S. Postal services) to the 2028 West Division Condominiums are hereby declared, granted, and reserved access easements for ingress and egress to, over and across the 2028 West Division Condominiums for the purpose of providing any such services.

2.7. Additional Easements: In addition to the easements provided for in Section 2.5, the Board, on behalf of all of the Unit Owners, shall have the right and power (a) to grant such easements with respect to the Common Elements (except the Limited Common Elements) as the Board deems necessary and proper, including, without limitation, access easements for service vehicles operated by any governmental authority or private enterprise and/or easements related to the installation and operation of a cable or satellite television system or other communication systems and/or (b) to cancel, alter, change or modify any easement which affects the 2028 West Division Condominiums and does not benefit a Unit Owner, as the Board may, in its discretion, determine. Without limiting the foregoing, until such time as the Declarant no longer holds title to a portion of the 2028 West Division Condominiums, the Board shall grant such easements as the Declarant may from time to time request including, but not limited to, such easements as may be required to construct, keep and maintain improvements upon the Common Elements or to provide owners of the 2028 West Division Condominiums with necessary utility services. Each Person, by acceptance of a deed, mortgage, trust deed, other evidence of obligation, or other instrument relating to a Unit Ownership, shall be deemed to grant a power coupled with an interest to the Board, as attorney-in-fact, to grant, cancel, alter or otherwise change the easements provided for in this Section. Any instrument executed pursuant to the power granted herein shall be executed by the President and attested to by the Secretary of the Association and duly recorded.

2.8. Real Property Taxes: Real estate taxes, special assessments, and any other special taxes or charges of the State of Illinois or any duly authorized subdivision or agency thereof, are to be separately assessed and taxed to each Unit Owner as provided in the Law. In the event that following the date of this Declaration there shall be issued by the Cook County Collector one or more tax bills which are not based on assessments of individual Units, then the Association shall pay such tax bill(s). If the tax bill is addressed to the Association and includes only Common Elements, then the Association shall pay the tax bill and the amount thereof shall be included in the Assessments of the Unit Owners. If the tax bill is addressed to the Declarant, the predecessor in title to the Declarant, or the Association and is based on an assessment of property which includes one or more Units, then the Association shall pay the tax bill

and the Unit Owners who were not separately billed by the Cook County Collector for real property taxes on their Units shall pay their prorata share of such taxes to the Association on demand, but not later than thirty (30) days prior to the due date(s) for payment of such taxes. The amounts of payment shall be allocated based on the Undivided Interests of the Units involved, after deducting any taxes attributable to business personal property owned by the Declarant or the predecessor in title to the Declarant. Any amounts of such taxes payable by a Unit Owner shall be a charge hereunder payable by the Unit Owner to the Association and failure of a Unit Owner to pay any such charge to the Association shall give rise to a lien against the Unit Owner's Unit under Section 6.01 and may be collected in the same manner as delinquent Assessments.

2.9. Land Trustee as Unit Owner: In the event title to any Unit is conveyed to a land trust under the terms of which all powers of management, operation and control of the Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries there under shall be considered Unit Owners for all purposes, and they shall be responsible for payment of all obligations, liens, or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Unit. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created, and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of any such lien or obligation shall continue to be a charge or lien upon the Unit and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title such Unit.

ARTICLE III

Covenants and Restrictions as to Use and Maintenance

3.1. Ownership of Common Elements: The percentage interest appertaining to each Unit (herein above defined as Undivided Interest) has been calculated in accordance with the Act and set forth in Exhibit C, attached hereto. Each Unit Owner shall own an undivided interest in the Common Elements as a tenant in common with all the other Unit Owners in accordance with the Act. Said individual ownership interest in the Common Elements shall only be conveyed or encumbered with the respective Unit and shall always be deemed conveyed or encumbered upon the conveyance or encumbrance of the respective Unit. Exhibit C may not be changed without unanimous written approval of all Unit Owners and all First Mortgagees, except as hereinafter provided in Sections 4.8 or as otherwise permitted under the Act. The Common Elements shall remain undivided and no Unit Owner shall bring any action for partition.

3.2. Use of Common Elements:

(a) No Unit Owner, tenant or resident shall use the Common Elements or any part thereof, in any manner contrary to or in violation of any such rule and regulations deemed necessary and proper by the Board as amended and/or supplemented.

(b) Each Unit Owner shall have the right to use the Common Elements, on a non-exclusive basis, in common with all other Unit Owners, as may be required for ingress and egress to and from their respective Unit, and for such other purposes not prohibited hereunder.

(c) Each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements, if any, as such may be designated in the Plat to serve said Owner's Unit. This shall include Balconies adjacent to and accessed from Units, and any storage area designated for use as of a Unit Owner.

(d) The rights to use and possess the Common Elements, including the Limited Common Elements, as herein provided, shall extend to each Unit Owner, and the agents, servants, tenants, and invitees of each Unit Owner and such rights and easements shall be subject to and governed by the provisions of the Act, this Declaration, the By-Laws, zoning and land use restrictions and commitments, and the reasonable rules and regulations of the Board.

(e) Each Parking Unit shall only be used in accordance with uniform restrictions established by the Board.

3.3. Common Elements Leasing Prohibited: The Board shall be absolutely prohibited from leasing or granting licenses or concessions with regard to all or any part of the Common Elements.

3.4. Parking: Owners of Parking Units shall have the exclusive right to park a vehicle within said parking space.

3.5. Right of Entry and Inspection: The Board or its agents, upon reasonable notice or, in the case of an emergency without notice, shall have the right to enter any Unit, including any of the Limited Common Elements appurtenant thereto, when necessary in exercise of its authority hereunder, or in connection with any maintenance, repair and replacement for which the Board is responsible. Such entry shall be made with as little inconvenience to the Unit Owners as practicable, and any damage caused thereby shall be repaired by the Board, as a Common Expense.

3.6. Separate Mortgages: Each Unit Owner shall have the right, subject to the provisions herein, to make a separate mortgage or encumbrance or other lien on their respective Unit Ownership and Parking Unit(s). No Unit Owner shall have the right or authority to make or create, or to cause to be made or created, any mortgage or encumbrance or other lien on or affecting the 2028 West Division Condominiums or any part thereof, except only to the extent of their Unit Ownership. In order to prevent any severance of Undivided Interests, no Unit Owner shall execute any deed, mortgage, lease or other instrument separating title to Owner's Unit and corresponding percentage ownership in the Common Elements.

3.7 Maintenance, Repair and Replacement of Common Elements: Cleaning, decorating, landscaping, maintenance, painting, repair and replacement of the Common Elements shall be furnished by the Board as part of the Common Expenses.

3.8. Maintenance, Repair and Replacement of Units and Excluded Elements:

(a) Each Unit Owner shall furnish and be responsible, at their expense, for all of the maintenance, repairs and replacements within their Unit including painting, flooring, fixtures, cabinets and all internal installations of such Unit as appliances, heating and air conditioning service facilities, plumbing and electrical and any other utility service facilities located within Owner's Unit, and shall keep them in good condition and repair. The Board may, in its discretion, cause maintenance services to, be performed within a Unit upon the request of a Unit Owner and may charge a reasonable fee for such services. Without limiting the foregoing, to the extent that insurance carried by the Association covers damage to a Unit (including, without limitation, broken windows), the Association shall make any insurance proceeds received by the Association as a result of any such damage available to the Unit Owner to pay for or reimburse the Unit Owner for payment of the cost of repairing the damage.

(b) Whenever the Board shall determine, in its discretion, that any maintenance, repair, or replacement of any Unit is necessary to protect the Common Elements or any other portion of the 2028 West Division Condominiums (i) if such work is made necessary through the fault of the Unit Owner, then the Board may direct the Unit Owner thereof to perform such maintenance, repair, or replacement and pay the cost thereof, or (ii) if such work is made necessary through no fault of the Unit Owner, then the Board may cause the work to be done and the cost thereof shall be a Common Expense. If a Unit Owner fails or refuses to perform any such maintenance, repair, or replacement within a reasonable time after being so directed by the Board pursuant to the preceding sentence, then the Board may cause such maintenance, repair, or replacement to be performed at the expense of such Unit Owner. The determination of whether or not the work is made necessary through the fault of the Unit Owner shall be made by the Board and such determination shall be final and binding.

3.9 Additions, Alterations or Improvements:

(a) The Board may make additions, alterations, or improvements to the Common Elements and charge the cost thereof as a Common Expense or, in the case of Limited Common Elements, may, but is not required to, charge the cost thereof to the Unit Owners benefited thereby (either on the basis of Undivided Interests or in equal shares, whichever the Board believes, in its sole discretion, to be appropriate). Subject to the provisions of Section 6.6, the cost of any such work to the Common Elements may be paid out of a special assessment.

No Unit Owner shall (i) make any addition, alteration or improvement to any part of the Common Elements which is visible from outside of the Unit or make any addition, alteration or improvement to their Unit where such work alters the structure of the Condominium Building in which the Unit is located or increases the cost of insurance

required to be carried by the Board hereunder, without the prior written consent of the Board. Furthermore, no alteration may be made in violation of any applicable governmental requirements. The Board may (but shall not be required to) condition its consent to the making of an addition, alteration or improvement by a Unit Owner (ii) upon the Unit Owner's agreement that any addition, alteration or improvement will be substantially similar in quality of construction and design to any similar addition, alteration or improvement constructed by Declarant and (iii) upon Unit Owner's agreement either (A) to be solely responsible for the maintenance of such addition, alteration or improvement, subject to such standards as the Board may from time to time reasonably establish, or (B) to pay to the Association from time to time the additional cost of maintenance and/or insurance as a result of the addition, alteration or improvement. Unit Owners shall be allowed to make alterations to the interior of their respective Units that are non-structural in nature, without prior consent of the Board. If an addition, alteration or improvement is made by a Unit Owner without the prior written consent of the Board, then the Board may, in its discretion, take any of the following actions:

(1) Require the Unit Owner to remove the addition, alteration or improvement and restore the 2028 West Division Condominiums to its original condition, all at the Unit Owner's expense; or

(2) If the Unit Owner refuses or fails to properly perform the work required under (1), the Board may cause such work to be done and may charge the Unit Owner for the cost thereof as determined by the Board; or

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

(c) No person shall have the right to cause any addition, alteration, or improvement to or within 2028 West Division Condominiums unless it conforms to all zoning and land use restrictions and commitments applicable to 2028 West Division Condominium.

Section 3.10. Negligence: Each Unit Owner shall be liable for the acts of or the negligence or willful acts or omission of a Unit Resident, family member, a pet, guest or other occupant or invitee of such Unit Resident, damage shall be caused to a part of the 2028 West Division Condominiums and maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, then upon demand by the Board the Unit Owner of the Unit in which such Unit Resident resides shall pay for such damage and such maintenance, repairs, and replacements, as may be determined by the Board. To the extent such damage is reimbursed to the Association by insurance, if any, carried by the Association, the Unit Owner shall pay to the Association the deductible amount under any applicable insurance policy and any amounts not covered by such insurance. The Unit Owner shall pay the amount of any increase in insurance premiums occasioned by Unit Owner's use, misuse, occupancy, or abandonment of their Unit, its appurtenances, the Limited Common Areas, or the Common Elements.

3.11. Mechanic's Lien: The Board may cause to be discharged any mechanic's

lien or other encumbrance, in any amount necessary, which, in the opinion of the Board, may constitute a lien against the 2028 West Division Condominiums or Common Elements, rather than against a particular Unit Ownership. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be liable jointly and severally for the amount necessary to discharge the same and for all costs and expenses (including attorneys fees and expenses) incurred by reason of such lien, any such amounts shall be specially assessed as to any such Unit Owners.

3.12. Antennae: Subject to the CCR and the Telecommunication Act of 1996 and other applicable Federal, state or local laws, ordinances or regulations, no mast, satellite dish, antennae or other structure for transmitting or receiving messages or programs by radio or television shall be erected, permitted or maintained in or upon any part of the 2028 West Division Condominiums without the prior written approval of the Board.

3.13 Prohibited Alternatives Structures and Uses: No structure of a temporary character, including, without limitation, a camper, trailer, recreational vehicle, mobile home, tent, solarium, greenhouse, shack or other outbuilding shall be used, stored or maintained anywhere in or on the 2028 West Division Condominiums either temporarily or permanently, except as expressly approved, in writing, by the Board. No alterations shall be made to balconies or patios appurtenant to Units without the prior written consent of the Board. No activities shall be conducted on Balconies appurtenant to Units which violate any applicable governmental restrictions or which are determined, by the Board to disturb other Unit Owners. The Balconies shall not be used for permanent storage.

3.14 Structural Impairment: Nothing shall be done in, on or to any part of the 2028 West Division Condominiums which would impair the structural integrity of any Building or structure located on the 2028 West Division Condominiums.

3.15 Plantings: No plants or seeds, or other things or conditions, harboring or breeding infectious plant disease or noxious insects shall be introduced or maintained in or upon any part of the 2028 West Division Condominiums without the prior written approval of the Board.

3.16 Proscribed Activities: Unit Owner shall not place or cause or permit to be placed in the vestibules, stairways and other Common Elements of a similar nature, any furniture, packages or objects of any kind. Such areas shall be used for no other purpose than for normal transit through them.

3.17 Exterior Exposure Nuisance: No Unit Resident shall cause or permit clothes, sheets, blankets, laundry of any kind, or other similar articles shall be hung out on any part of the Common Elements except as permitted by rules and regulations of the Board. The 2028 West Division Condominiums shall be kept free and clear of all rubbish, debris and other unsightly materials and no waste shall be committed thereon.

All rubbish shall be deposited in such areas and such receptacles as shall be designated by the Board.

3.18 Parking Restrictions: No boats, recreational or commercial vehicles, campers, mobile homes or trailers shall be parked overnight in any driveway on the 2028 W Division Condominiums, without the prior written consent of the Board. Except for emergency repairs, no repairs to vehicles shall be performed on the 2028 West Division Condominiums. Parking within the 2028 West Division Condominiums shall be subject to the CCR and rules and regulations of the Board uniformly applicable to all Unit Owners. Parked vehicles which are inoperable or abandoned may be removed at their owner's expense by the Board.

3.19. Rules and Regulations:

(a) The use and enjoyment of the 2028 West Division Condominiums shall be subject to reasonable rules and regulations uniformly applicable to Unit Owners duly adopted by the Board from time to time following procedures, if any, required under the Law.

(b) The Board may levy a reasonable charge upon the Unit Owners for a violation of any part of this Declaration, as amended from time to time, and of any duly adopted rule or regulation, in accordance with the procedures set forth in Section 7.3.

3.20. Lease of Unit by Owner: Any Unit Owner shall have the right to lease all (but not less than all) of their Unit upon such terms and conditions as the Unit Owner may deem advisable, except, that no Unit shall be leased for a term of fewer than three (3) months. Any such lease shall be in writing, a copy of which must be delivered to the Association, and shall provide that the lease and the lessee shall be subject to the terms of this Declaration and that any failure of the lessee to comply with the terms of this Declaration shall be a default under the lease. The Board may adopt such rules and regulations applicable to the leasing of Units as it deems advisable and necessary. Notwithstanding anything contained herein, the provisions of this Section and any rules or regulations adopted pursuant hereto by the Board shall not at any time apply to any Units owned by the Declarant.

3.21. Alteration by Combination of Units: Subject to the provisions of Article IX, with the prior approval of the Board, which approval shall not be unreasonably withheld, the Unit Owner of two adjacent Units, including, Units located beside, above, or below each other or a Unit which is located in the airspace above another Unit ("Adjacent Units") shall be permitted to remove a portion of the wall, ceiling, floor or other partition in the Common Elements between the Adjacent Units (at the Unit Owner's sole cost and expense) in order to permit access between the Adjacent Units so that the Adjacent Units may be combined and used together as one home. No combination requiring the removal or partial removal of load bearing wall shall be approved by the Board. The Unit Owner of the Adjacent Units shall have the exclusive right to use and enjoy the portion of the Common Elements between the Adjacent Units

that has been removed and shall be solely responsible for the maintenance of such area. If the Unit Owner of the Adjacent Unit desires to separate the Adjacent Units for use and occupancy as separate homes, the Unit Owner shall so notify the Board and shall restore the wall, ceiling, floor, or other partition between the Units to the condition which the wall, ceiling, floor or other partition was in before it was removed or otherwise altered by the Unit Owner of the Adjacent Units. From and after the restoration of such wall, ceiling, floor, or other partition, the portion of the Common Elements that had previously been used by the Unit Owner of the Adjacent Units shall be maintained by the Association. In the event of the removal of a portion of the wall, ceiling, floor or other partition in the Common Elements between Adjacent Units as provided for in this Section, the Adjacent Units shall each continue to be individual Units for purposes of this Declaration and the Undivided Interest assigned to each of the Adjacent Units shall not be changed. Prior to combining the Adjacent Units, the Unit Owner shall upon request of the Board provide the following documents to the Board: (a) a drawing prepared and certified by an architect licensed by the State of Illinois; (b) an indemnification agreement satisfactory to the Board; (c) all appropriate building permits; and (d) insurance policies satisfactory to the Board to support such indemnification and all other risks which may be created by such work and the joinder of the Units.

ARTICLE IV **Insurance**

4.1 Insurance by Association: The Association shall keep one insurance policy for the Real Estate, plus the areas for retail and office use on the first floor which are excluded from the Real Estate, and shall charge the owner of the retail and office space for a portion of such insurance according to the terms of the CCR. The Board shall have the authority to and shall obtain insurance for the 2028 West Division Condominiums against loss or damage by fire and such other hazards as may be required under the Law, as the Board may deem desirable, or as reasonably required by First Mortgagees, for not less than one hundred percent (100%) of the full insurable replacement cost of the Common Elements and the Units. The "full insurable replacement cost" of the Building, including Units, Common Elements as well as Limited Common Elements, shall be determined from time to time by the Board, which determination may be based upon appropriate insurance appraisals, insurable replacement cost and insurable replacement costs shall be deemed to include the cost of restoring the Building, including the Units, Common Elements as well as the Limited Common Elements of any part thereof, to substantially the same condition in which they existed prior to damage or destruction. Premiums for such insurance shall be Common Expenses. Such insurance coverage shall be written in the name of, losses under such policies shall be adjusted by, and the proceeds of such insurance shall be payable to, the Board as trustee for each of the Unit Owners in accordance with their Undivided Interests. All such policies of insurance (i) shall contain standard mortgage clause endorsements in favor of the First Mortgagees as their respective interests may appear, (ii) shall provide that the insurance, as to the interests of the Board, shall not be invalidated by any act or neglect of any Unit Owner, (iii) shall provide that notwithstanding any provision thereof which

gives the insurer an election to restore damage in lieu of making a cash settlement thereof, such option shall not be exercisable if the Unit Owners elect to sell the 2028 West Division Condominium or remove the 2028 West Division Condominiums from the provisions of the Law, (iv) to the extent possible, shall provide that such policy shall not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days written notice to the First Mortgagee of each Unit Ownership, and (v) shall contain waivers of subrogation with respect to the Association and its directors, officers, employees and agents (including the managing agent), Unit Owners, occupants of the Unit, First Mortgagees, and the Declarant and shall name all such parties as additional insured parties as their interests may appear.

4.2 Distribution of Proceeds: Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Unit Owners and their First Mortgagees in the following manner:

In case of fire or any other casualty or disaster, other than complete destruction of the Building, the Improvements shall be reconstructed and the insurance proceeds applied to reconstruct the Improvements in the same manner, style and quality as they were originally constructed. A First Mortgagee shall be notified by the Association in a timely fashion in the event of substantial damage to or destruction of any Unit or any part of the Common Elements or Limited Common Elements. In the event of complete destruction, the Building will be reconstructed, unless the Unit Owners in said Building by majority vote elect not to do so, in which event the Building will not be reconstructed and the insurance proceeds, if any, shall be divided among the Unit Owners and First Mortgagees as their respective interests may appear in accordance with the Undivided Interests of each Unit Owner and that portion of the Real Estate shall be considered removed from this Declaration of Condominium Ownership. The determination of whether any building is totally destroyed shall be made by a vote of the Unit Owners at a meeting called for that purpose after prior written notice to all Unit Owners. First Mortgagees shall be bound by the Unit Owner's decision and may consent by written instrument. In the event sums are required in excess of the insurance proceeds in order to rebuild the Buildings in the event of a casualty, the additional sums required shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

4.3 Insurance Trustee: The Board may engage the services of any bank or trust company authorized to do trust business in Illinois to act as trustee, agent or depositary on behalf of the Board for the purpose of receiving and disbursing the insurance proceeds resulting from any loss, upon such terms as the Board shall determine to be consistent with the provisions of the Law and this Declaration. The fees of such corporate trustee shall be Common Expenses. In the event of any loss in excess of \$100,000.00 in the aggregate, the Board shall engage a corporate trustee as aforesaid. In the event of any loss resulting in the destruction of the major portion of one or more Units, the Board shall engage a corporate trustee as aforesaid upon the written demand of the First Mortgagee or any Unit Owner of any Unit so destroyed. The rights of First Mortgagees under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein contained, at all times be

subject to the provisions in the Law and this Declaration with respect to the application of insurance proceeds to the repair or reconstruction of the Units or Common Elements. Payment by an insurance company to the Board or to such corporate trustee of the proceeds of any policy, and the receipt of a release from the Board of the company's liability under such policy, shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust under which proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or see to the application of any payments of the proceeds of any policy by the Board or the corporate trustee.

4.4 Association as Agent: The Board of Directors is hereby irrevocably appointed as agent and is hereby granted a power coupled with an interest, as attorney in fact, for each Unit Owner and for each holder of any other interest in 2028 West Division Condominiums (excepting First Mortgagees) to adjust all claims arising under the insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

(a) In no event may the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Unit Owners or their First Mortgagees.

(b) The Association is required to secure insurance policies that will provide for the following if such provisions are obtainable:

(1) A waiver of subrogation by the insurer as to any claims against the Association, the Declarant, the Owners and their respective servants, agents and guests;

(2) That the master liability policy may not be canceled, invalidated or suspended on account of the conduct of any one or more individual Owners;

(3) That neither the master liability policy nor the master casualty policy may be canceled, invalidated or suspended on account of the conduct of any officer or employee or the Board of Directors of the Association or for any other reason without at least 30 days prior notice in writing to the Board of Directors;

(4) That a "no other insurance" clause in the master policy shall exclude individual Owners' policies from consideration.

4.5 Additional Insurance: The Board shall also have the authority to and shall obtain the following insurance:

(a) Comprehensive public liability and property damage insurance against claims for personal injury or death or property damage suffered by the public or by any Unit Owner occurring in, on or about the 2028 West Division Condominiums or upon, in

or about the streets, private drives and passageways and other areas adjoining the 2028 West Division Condominiums, in such amounts as the Board shall deem desirable (but not less than \$1,000,000 covering all claims for personal injury and/or property damage arising out of a single occurrence);

(b) Such worker s compensation insurance as may be necessary to comply with applicable laws;

(c) Employer's liability insurance in such amounts as the Board shall deem desirable;

(d) Fidelity bond indemnifying the Association, the Board and the Unit Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling the funds of the Association, the Board or the Unit Owners in such amounts as the Board shall deem desirable and as required by the Law; and

(e) Directors and officers liability insurance, if the Board so desires.

Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. To the extent possible, all of such policies shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to the Association and First Mortgagees who specifically request such notice. The premiums for such insurance shall be Common Expenses.

4.6 Unit Owner Insurance: Each Unit Owner shall obtain their own insurance on the contents of their own Unit and furnishings and personal property therein, and their personal property stored elsewhere on the 2028 West Division Condominiums, and their personal liability to the extent not covered by the liability insurance for all of the Unit Owners obtained as part of the Common Expenses as above provided, and the Board shall have no obligation whatsoever to obtain any such insurance coverage on behalf of the Unit Owners. Each Unit Owner shall promptly report, in writing to the Board, any betterments or improvements to their Unit without prior request from the Board. Unless otherwise specifically agreed to by the Board, the Unit Owner shall be responsible for insuring any such betterments and improvements to their Unit. The Board shall not be responsible for obtaining insurance on such betterments or improvements and shall not be obligated to apply any insurance proceeds from policies it is obligated to maintain hereunder to restore the affected Unit to a condition better than the condition existing prior to the making of such betterments or improvements.

4.7 Waiver of Subrogation: Each Unit Owner hereby waives and releases any and all claims which they may have against any other Unit Owner, the Association, its directors and officers, the Declarant, the Declarant's beneficiary, the manager and the managing agent if any, and their respective employees and agents, for damage to the Common Elements, the Units, or to any personal property located in the Units or Common Elements, caused by fire or other casualty, to the extent that such

damage is covered by fire or other form of casualty insurance, and to the extent this release is allowed by policies for such fire or other casualty insurance.

4.8 Condemnation:

(a) In the case of a taking or condemnation by competent authority of any part of the 2028 West Division Condominiums, the Association shall distribute any proceeds or awards paid to the Association, first distributed said proceeds to Unit Owners and then First Mortgagees and the remainder either (i) applied to pay the Common Expenses or (ii) distributed to the remaining Unit Owners and their respective First Mortgagees, as their interests may appear, based on their current Undivided Interests. Each Unit Owner appoints the Association as attorney-in-fact for the purpose of representing him in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Elements or any part thereof.

(b) In the event of a condemnation preceding then the entire property shall be deemed to have been removed from the provisions of the Law.

ARTICLE V

2028 West Condominium Association, Inc.

5.1 2028 West Division Condominium Association: Declarant shall cause the Association to be incorporated as a nonprofit corporation under the Illinois Nonprofit Corporation Act (the "Act"). The Association shall be the governing body for all of the Unit Owners and for the maintenance, repair, replacement, administration and operation of the 2028 West Division Condominiums as provided in the Act, this Declaration and the By-Laws. All agreements and determinations lawfully made by the Association shall be deemed to be binding on all Unit Owners and their respective successors and assigns.

5.2 Membership:

(a) All Unit Owners shall be Members of the Association which shall be composed of a single class of Membership. There shall be one membership per Unit Ownership and Membership shall be appurtenant to and may not be separated from ownership of a Unit. Ownership of a Unit shall be the sole qualification for membership. The Association shall be given written notice of the change of ownership of a Unit within ten (10) days before a sale of a Unit and within ten (10) days after a change occurring due to other circumstances.

(b) Each Unit owner shall designate one (1) individual as the "Voting Member" who, directly or by their proxy, shall be entitled to vote at the meeting of Unit Owners. No person shall be eligible to be a Voting Member unless they own all or part of the fee simple title or beneficial interest to the Unit in question, are the personal representative of a Unit Owner, or are an officer, general partner, member, or beneficiary of the corporation, partnership, limited liability company, or trust which is the Unit Owner.

5.3 Board: From and after the Relinquish Date, the Board shall consist of such number of individuals as provided for in the By-Laws, each of whom shall be a Unit Owner or a Voting Member. The Board shall be elected at each annual meeting of the Unit Owners as provided in the By-Laws.

5.4 Board's Determination Binding: In the event of any dispute or disagreement between any Unit Owners relating to use or operation of the Real Estate, Building, Common Elements, Limited Common Elements, or property of the Association, the determination of the Board shall be binding on all Unit Owners and their invitees.

5.5 Voting Rights: Whenever a vote of the members of the Association is required, at any meeting of such members or otherwise, such votes shall be cast by the Voting Members or their proxies; provided that a Unit Resident who is a contract purchaser of a Unit from a contract seller other than the Declarant, shall have the right to vote for directors of the Association unless such contract seller expressly retains such right in writing. Except as otherwise specifically required under the Law, this Declaration or the By-Laws, each Voting Member shall have a vote for each Unit which the Voting Member represents equal to the Undivided Interest appurtenant to the Unit.

5.6 Managing Agent: Prior to the Relinquish Date, the Board may enter into any management agreement it deems appropriate under the circumstances; provided, however, that any such management agreement must be terminable upon not more than 90 days prior written notice on or after the Relinquish Date. Commencing on the Relinquish Date and continuing thereafter, the Board may not enter into any management agreement covering the management of the 2028 West Division Condominiums that has an original term in excess of three (3) years. Each management agreement must be terminable for cause by the Association on thirty (30) days written notice, and must be terminable without cause upon payment of a reasonable termination fee by either party on not more than ninety (90) days written notice.

5.7 Director and Officer Liability: The Association shall represent and warrant, that upon the effectiveness of this Declaration, neither the directors nor officers of the Association whether elected or designated by the Declarant shall be personally liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors or officers, except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless each of the directors and each of the officers, their heirs, executors or administrators to the extent permissible under the applicable laws of the State of Illinois and the United States, and the Articles and By-Laws of the Association, against all contractual and other liabilities to others arising out of contracts made by or arising from performance and discharge of their duties as a directors or manager on behalf of the Unit Owners or the Association unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all

costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, administrative, or other, in which a director or officer may be involved by virtue of such person being or having been a director or officer; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of their duties as a director or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of their duties as a director or officer.

5.8 Real Estate Tax Relief: Upon the affirmative vote of Voting Members representing a majority of the votes in the Association or the affirmative vote of two-thirds of the members of the Board, the Board, on behalf of all the Unit Owners, shall have the authority to seek relief for the Unit Owners from any real estate taxes, special assessments or other governmental charges, and any expenses incurred in connection therewith shall be Common Expenses. If the Association undertakes such tax appeals, all Unit Owners who have pending appeals involving the same tax assessment year shall transfer management and control of such appeals to the Association.

5.9 Litigation: Upon the affirmative vote of not less than two-thirds of the elected Directors, the Board may initiate and prosecute judicial or administrative proceedings in the name of the Association if the Directors reasonably believe in good faith that such actions are in the best interest of the Association. However, at any annual meeting or special meeting called for such purpose, a two-thirds majority of the Members may vote to withdraw from such litigation, in which event the Board shall withdraw from such litigation at the earliest possible time if the Association will not suffer damages to the opposing party by reason of such withdrawal.

5.10 Interested Directors or Officers:

(a) Prior to the Relinquish Date, the Board of Directors may enter into any contract with any person or entity affiliated with the Declarant or any Director, provided that the terms of the contract are fair and reasonable to the Association. Any such contract may be canceled by the Board of Directors after the Relinquish Date.

(b) After the Relinquish Date, a contract or other transaction between the Association and one or more of its Directors or Officers, or between the Association and any firm of which one or more of its directors or officers are Members, or in which any Director or Officer hold a beneficial interest therein, or between the Association and any other corporation or association of which one or more of the Directors or Officers are shareholders, members, directors, officers, or employees, or in which such Directors or Officers are beneficial interest holders, shall be terminable by the Board on fifteen (15) days notice because of this relationship or interest unless the Board of Directors

expressly authorizes, approves, or ratifies the contract or transaction solely on the determination by the Board of Directors that the contract or transaction is fair and reasonable to the Association. Each Director and Officer shall promptly disclose all relevant facts with respect to such actual or potential conflicts of interests to the Board of Directors. Directors who have such conflicts of interest shall be counted in determining the presence of a quorum at a meeting of the Board of Directors that authorizes, approves, or ratifies the contract or transaction, but they may not move for approval of the contract, etc., or second such motion, and they shall not vote on the motion. This Section shall not be construed to invalidate any contract or other transaction which would otherwise be valid under the common, equitable, or statutory law applicable thereto, but shall create liability for conflict of interest and breach of fiduciary duty in the event of violation hereof.

5.11 Acquisition of Unit: With the consent of a majority of the Unit Owners, the Board has authority to elect to acquire a Unit at a judicial sale for resale purposes or at any time to be used as a Common Element. In said event the Board may arrange financing secured by said Unit as deemed necessary to facilitate said transaction.

ARTICLE VI

Assessments

6.1 Creation of Lien and Personal Obligations: The Declarant, for each Unit Ownership hereby covenants, and each Unit Owner of a Unit Ownership by acceptance of a deed thereby, shall be and is deemed to covenant and hereby agrees to pay to the Association such assessments or other charges or payments as are levied pursuant to the provisions of this Declaration. Such assessments, or other charges or payments, together with interest thereon and costs of collection, if any, as herein provided, shall be a charge on the Unit Ownership and shall be a continuing lien upon the Unit Ownership against which each such assessment is made. Each such assessment, or other charge or payment, together with such interests and costs, shall also be the personal obligation of the Unit Owner of such Unit Ownership at the time when the assessment or other charge or payment is due.

6.2 Purpose of Assessment: The assessments levied by the Association shall be exclusively for the purposes of promoting the recreation, health, safety, and welfare of members of the Association, to administer the affairs of the Association, and to pay the Common Expenses.

6.3 Assessment Period: The Board shall, no less than sixty (60) days prior to the fiscal year end of the Association and no less than thirty (30) days prior to final adoption thereof, the Board shall furnish each Unit Owner with a proposed budget for the next fiscal year which shall show the following, with reasonable explanations and itemizations:

- (a) The estimated Common Expenses with an allocation of portions thereof

for the payment of real estate taxes, if any;

(b) The estimated amount, if any, to maintain adequate reserves for contingencies for Common Expenses;

(c) The amount to be added to the Replacement Reserve;

(d) The estimated net available cash receipts from sources other than assessments;

(e) The amount of the "Annual Assessment", which is hereby defined as the amount determined in (a) above, plus the amount determined in (b) and (c) above, minus the amounts determined in (d) above, minus the excess funds and plus the funds shortage, if any, from the current years operation; and

(f) That portion of the Annual Assessment which shall be payable by the Unit Owner with respect to their Unit each month (the "Monthly Assessment") until the next Annual Assessment or revised Annual Assessment becomes effective, which monthly portion shall be equal to one twelfth (1/12th) of the Annual Assessment multiplied by the Units Undivided Interest.

(g) Prior to the Relinquish Date, the Declarant shall be required to pay assessments with respect to unoccupied Units owned by the Declarant which are being offered for the first time for sale by the Declarant.

6.4 Payment of Assessments: On or before the first day of the fiscal year, and on or before the first day of each and every month thereafter until the effective date of the next Annual Assessment, each Unit Owner shall pay to the Association, or as it may direct, that portion of the Annual Assessment which is payable by such Unit Owner as Monthly Assessment. Anything herein to the contrary notwithstanding, prior to the first conveyance of a Unit by Declarant to a bona fide purchaser for value, all expenses relating to the administration, operation, maintenance, repair and replacement of the 2028 West Division Condominiums shall be paid by the Declarant and during such period there shall be no assessments payable to the Association.

6.5 Revised Assessment: If the Annual Assessment proves to exceed funds reasonably needed, then the Board may decrease the Monthly Assessments as of the first day of a month by the giving of written notice thereof (together with a revised budget for the balance of the year and reasons for the decrease) not less than ten (10) days prior to the effective date of the decreased assessment.

6.6 Special Assessment: The Board may levy a special assessment (i) to pay (or build up reserves to pay) extraordinary expenses incurred (or to be incurred) by the Association for a specific purpose including, without limitation, to make major repairs, additions, alterations or improvements to the Common Elements, or

(ii) to cover an unanticipated deficit under the current or prior year's budget. Each Unit Owner shall be responsible for the payment of the amount of the special assessment multiplied by their Unit's Undivided interest. The Board shall serve notice of a special assessment on all Owners by a statement in writing giving the amount and reasons therefore, and the special assessment shall be payable in such manner and on such terms as shall be fixed by the Board. Any assessments collected pursuant to this Section (other than those to cover an unanticipated deficit under the current or prior year's budget) shall be segregated in a special account and used only for the specific purpose set forth in the notice of assessment.

6.7 Annual Report: Within not more than ninety (90) days time after the close of the Association's fiscal year, the Board shall furnish each Unit Owner with an itemized account of the Common Expenses for such fiscal years actually incurred or paid, together with an indication of which portions of the Common Expenses for such fiscal years were incurred or paid for capital expenditures or repairs or the payments of real estate taxes, if any, and with a tabulation of the amounts collected for the Annual Assessment and showing the net excess or deficit of income over expenditures, plus reserves.

6.8 Replacement Reserve: The Association shall segregate and maintain a special reserve account to be used solely for making capital expenditures in connection with the Common Elements, including a reserve fund for replacements (the "Replacement Reserve). The Board shall determine the appropriate level of the Replacement Reserve based on a periodic review of the useful life of improvements to the Common Elements and equipment owned by the Association as well as periodic projections of the cost of anticipated major repairs or improvements to the Common Elements or the purchase of equipment to be used by the Association in connection with its duties hereunder. The Replacement Reserve may be built up by special assessment or out of the Annual Assessment as provided in the budget. Each budget shall disclose that percentage of the Annual Assessment which shall be added to the Replacement Reserve and shall also disclose (i) which portion thereof is for capital expenditures with respect to the Common Elements and (ii) which portion thereof is for capital expenditures with respect to property owned or to be owned by the Association, if any. Special accounts set up for portions of the Replacement Reserve to be used to make capital expenditures with respect to the Common Elements shall be held by the Association as agent and trustee for the Unit Owners in an interest-bearing account in accordance with the Law and such accounts shall be deemed to have been funded by capital contributions to the Association by the Unit Owners.

6.9 Working Capital Fund: Upon each closing of the first sale of each Unit by the Declarant to a purchaser for value, the purchasing Unit Owner shall make a contribution to the Working Capital Fund of the Association in an amount equal to two (2) monthly installments of the then current Monthly Assessment for that Unit. Prior to the Relinquish Date, the Association and the Declarant shall not spend any part of the Working Capital Fund for any purpose. After the Relinquish Date, the Association shall have full access to the Working Capital Fund only to pay for unforeseen expenses or to purchase additional equipment and services for the Association. In no event will the

Association, the Declarant, or the Unit Owners be permitted to use the Working Capital Fund for the purpose of paying for normal common expenses.

6.10 Non-Payment Assessments: Any assessments or other charges or payments which a Unit Owner is required to make or is liable for hereunder which are not paid when due shall be deemed delinquent. If an assessment or other charge or payment is not paid within thirty (30) days after the due date, it shall bear interest from the due date at one and one-half percent (1.5%) per month, or any lower rate determined by the Board, and the Board (i) may bring an action against the Unit Owner personally obligated to pay the same, together with interest, costs, other collection charges, and reasonable attorneys' fees of any such action, which shall be added to the amount of such assessment or other charge or payment and shall be included in any judgment rendered in such action and (ii) may enforce and foreclose any lien which it has or which may exist for its benefit. In addition, the Board may in its discretion charge reasonable late fees for the late payment of assessments or other charges. No Unit Owner may waive or otherwise escape liability for the assessments or other charges or payment provided for herein by nonuse, abandonment or transfer of their Unit.

6.11 Association's Lien Subordinated to Mortgages: The lien on each Unit Ownership provided for in Section 6.1 for assessments or other charges or payments shall be subordinate to the lien of any First Mortgage on the Unit Ownership Recorded prior to the date that any such assessments or other charges or payments become due. Except as hereinafter provided, the lien provided for in Section 6.1 shall not be affected by any transfer of title to the Unit Ownership. Where title to the Unit Ownership is transferred pursuant to a decree of foreclosure or by deed or assignment in lieu of foreclosure of a First Mortgage, such transfer of title shall to the extent permitted by law extinguish the lien for any assessments or other charges or payments under Section 6.1 which became due prior to (i) the date of the transfer of title or (ii) the date on which the transferee comes into possession of the Unit, whichever occurs first. However, the transferee of a Unit Ownership shall be liable for their share of any assessments or other charges or payments with respect to which a lien against their Unit Ownership has been extinguished pursuant to the preceding sentence which are reallocated among the Unit Owners pursuant to a subsequently adopted annual, revised or special assessment and nonpayment thereof shall result in a lien against the transferee's Unit Ownership as provided in Section 6.1.

6.12 Statement of Account: Upon seven (7) days' notice to the Board and the payment of a reasonable fee, if any, which may be set by the Board, a Unit Owner shall be furnished with a statement of their account setting forth the amount of any unpaid assessments or other charges due and owing from the Unit Owner as of the date of the statement. The statement shall be executed by a duly authorized officer or agent of the Association and shall be binding on the Association.

6.13 Payment of Real Estate Taxes on Behalf of Unit Owners: Real estate taxes shall be assessed separately to each Unit by the Cook County Treasurer. During any year in which the real estate taxes levied on all or any part of the 2028 West Division Condominiums are not based on individual assessments of Units, the

Association shall pay such taxes and shall be reimbursed by the Unit Owners who owe such taxes for all such taxes, including applicable interest, penalties, and other charges included in the tax bill(s). In the event an allocation of such taxes among two (2) or more Unit Owners shall be required, the allocation shall be based on the respective Undivided Interests of the Units involved. If a Unit Owner shall fail to pay the appropriate amount to the Association within seven (7) days following the Association's demand for reimbursement, then the Association shall be entitled to all of the rights and remedies described in Section 6.10 hereof to recover the amounts owed to the Association from such Unit Owner. Any right to recover real estate taxes shall not be deemed subordinated by this Declaration to the lien of any First Mortgage and the Association shall be subrogated to the rights of the Cook County Collector as provided at law for the recovery of real estate taxes paid.

ARTICLE VII Remedies, Enforcement and Expenses

7.1 Self-Help: Subject to the provisions of Section 7.3, in the event of a violation by a Unit Owner of the provisions, covenants or restrictions of the Law, this Declaration, the By-Laws, or rules or regulations of the Board, where such violation or breach may be cured or abated by affirmative action, the Board, upon not less than ten, (10) days prior written notice, shall have the right to enter upon that part of the 2028 West Division Condominiums where the violation or breach exists and summarily abate, remove or do whatever else may be necessary to correct such violation or breach, provided, however, that where the violation or breach involves an improvement located within the boundaries of a Unit, judicial proceedings shall be instituted before any items of construction can be altered or demolished. Notwithstanding the foregoing, in the event of emergency and to protect persons and/or property within the 2028 West Division Condominiums then threatened with injury or damage, the Association may enter a Unit without the consent of the Unit Owner or occupant. Any and all expenses in connection with the exercise of the right provided by this section shall be charged to and assessed against the violating Unit Owner.

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

7.3 Enforcement: Prior to the imposition of any fine and concurrently with the

sending of the initial notices described in Section 7.1, the Board shall notify the Unit Owner, as the case may be, in writing of the violation of the rule or regulation and the Board's proposed remedy. Any Unit Owner who receives such notice may, within five (5) days after receipt of such notice, demand a hearing before the Board or its authorized committee. At such hearing a member of the Board shall present to the Unit Owner the grounds for the notice and the Unit Owner shall have an opportunity to challenge such grounds and to present any evidence on their behalf subject to such reasonable rules of procedure as may be established by the Board or its authorized committee, which rules shall adhere to the generally accepted standards of due process. If the Unit Owner demands a hearing as herein provided, such hearing shall be held within thirty (30) days after the Board receives the demand and no action shall be taken by the Board until the hearing has been held and notice of the decision of the Board or its authorized committee and the terms thereof has been delivered to the Unit Owner. The decision of the Board or its authorized committee shall be rendered within three (3) days after the hearing and such decision shall be final and binding on the parties.

7.4 Costs and Expenses: All expenses incurred by the Board in connection with the enforcement of the provisions of this Declaration or in connection with the exercise of its rights and remedies under this Article, including without limitation, court costs, reasonable attorneys fees and all other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at a rate of interest not to exceed one and one-half percent (1.5 %) per month, shall be charged to and assessed against the defaulting Unit Owner, and the Association shall have a lien for all the same upon such Unit Owner's Unit Ownership, as provided in Section 6.1.

7.5 Enforcement by Unit Owners: Enforcement of the provisions contained in this Declaration and the rules and regulations adopted hereunder may be by any proceeding at law or in equity by any aggrieved Unit Owner against any person or persons violating or attempting to violate any such provisions, either to restrain such violation or to recover damages, and against a Unit Ownership to enforce any lien created hereunder.

7.6 Failure to Enforce: No terms, obligations, covenants, conditions, restrictions or provisions imposed hereby or contained herein shall be abrogated or waived by any failure to enforce the same, no matter how many violations or breaches may occur.

ARTICLE VIII Rights of First Mortgagees and Third Parties

8.1 Notice to First Mortgagees, Insurers or Guarantors: Each First Mortgagee and each insurer ("Insurer") or guarantor ("Guarantor") of a First Mortgage shall have the right to examine the books and records of the Association at any reasonable time and to have an audited statement of the Association's operations prepared for a fiscal year at its own expense. Upon the specific written request of a First Mortgagee, Insurer, or Guarantor to the Board, such requesting party shall receive so

much of the following as is designated in the request:

(a) Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Unit Owner of the Unit covered by the First Mortgagee's First Mortgage;

(b) Any audited or unaudited financial statements of the Association, which are prepared for the Association and distributed to the Unit Owners; provided, however, that commencing with the second fiscal year the Association shall prepare and make available copies of audited financial statements for the preceding fiscal year;

(c) Copies of "notices of meetings" of the Unit Owners and the right to be represented at any such meetings by a designated representative;

(d) Notice of any proposed action, which would require the consent of a specified percentage of First Mortgagees, Insurers, or Guarantors pursuant to Section 8.2;

(e) Notice of the decision of the Unit Owners to make any material amendment to this Declaration, the By-Laws, or the Articles of Incorporation of the Association;

(f) Notice of substantial damage to or destruction of any Unit (in excess of \$1,000.00) or any part of the Common Elements (in excess of \$10,000.00);

(g) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the 2028 West Division Condominiums;

(h) Notice of any sixty (60)-day delinquency in paying Monthly Assessments or Special Assessments or other charges owed to the Association by the Unit Owner of the Unit, which is subject to a First Mortgage held, insured, or guaranteed by the requesting party;

(i) Copies of notices received by the Association of the lapse, cancellation, or substantial modification of any insurance policy or fidelity bond carried by the Association; and

0) The right to be treated as an "Eligible Mortgagee" for purposes of Section 8.2. The request of a First Mortgagee, Insurer, or Guarantor shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association. Failure of the Association to provide any of the foregoing to a First Mortgagee, Insurer, or Guarantor who has made a proper request therefore shall not affect the validity of any action which is related to any of the foregoing. The Association need not inquire into the validity of any request made by a First Mortgagee, Insurer, or Guarantor hereunder and may refuse to respond to multiple requests from the same or similar parties.

8.2 Consent of Mortgagees and Unit Owners: Amendments to the

Declaration and By-Laws, or actions by the Association, must be approved by Unit Owners who own at least Sixty six and 2/3 percent (66.67%) of the total Undivided Interests in 2028 West Division Condominiums, and approved by First Mortgagees who hold First Mortgages on Fifty-one (51%) of the Undivided Interests of Units, if they constitute a change in any of the following: (1) voting rights; (2) an increase in Monthly Assessments more than Thirty-five percent (35%) higher than the preceding Monthly Assessment, or assessment liens other than procedural requirements; (3) reallocation of Undivided Interests in or the rights to use Common Elements or Limited Common Elements; (4) withdrawal of property to or from the 2028 West Division Condominiums; (5) impositions of any restriction on a Unit Owners right to sell or transfer a Unit; (6) restoration or repair of the 2028 West Division Condominiums (after hazard damage or partial condemnation) in a manner other than that specified in the Declaration; (7) the abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Elements, (except for the granting of easements for public utilities or for other purposes consistent with the intended use of the 2028 West Division Condominiums and except for the encumbrance, sale or transfer of an Undivided Interest in connection with the encumbrance, sale or transfer of a Unit Ownership); and/or (8) the removal of a portion of the 2028 West Division Condominiums from the provisions of the Law and this Declaration.

8.3 Insurance Proceeds Condemnation Awards: In the event of (i) any distribution to Unit Owners of any excess insurance proceeds following the complete restoration of substantial damage to, or destruction of, any part of the 2028 West Division Condominiums or (ii) any distribution to Unit Owners of the excess proceeds of any award or settlement following repair or restoration of the 2028 West Division Condominiums as a result of condemnation or eminent domain proceedings, any such distribution shall be made to the Unit Owners and their respective First Mortgagees, as their interests may appear, and no Unit Owner or other party shall be entitled to priority over the First Mortgagee of a Dwelling Unit with respect to any such distribution to or with respect to such Unit: provided that, nothing in this Section shall be construed to deny to the Association the right to apply any such proceeds to repair or replace damaged portions of the 2028 West Division Condominiums, to restore what remains of 2028 West Division Condominiums after condemnation or taking by eminent domain of a part of the 2028 West Division Condominiums, or to apply such excess to the payment of Common Expenses or to increase the Replacement Reserve.

8.4 Disclosure of Information: The Association shall keep on hand at the offices of the Association or at the office of the Secretary if there is no Association office, current copies of this Declaration, the Articles of Incorporation, the By-Laws, and other rules and regulations duly adopted by the Board. All Unit Owners, mortgagees, insurers, and guarantors of first mortgages that are secured by Units shall have the right to inspect the above documents and the books, records, and financial statements of the Association during normal business hours.

ARTICLE IX
Declarant's Reservation of Rights

9.1 **General:** In addition to any rights or powers reserved or granted to the Declarant under the Law, this Declaration or the By-Laws, the Declarant shall have the rights and powers set forth in this Article. In the event of a conflict between the provisions of this Article and any other provisions of this Declaration or the By-Laws, the provisions of this Article shall govern. Except as otherwise provided in this Article, the rights of Declarant under this Article reserved or granted shall terminate at such time as the Declarant no longer is vested with or controls title to any portion of the 2028 West Division Condominiums.

9.2 **Promotional Endeavors:** Declarant shall have the right, in its discretion, to maintain on the 2028 West Division Condominiums model Units, sales, leasing, management, and/or administrative offices (which may be located in a Unit or in the Common Elements), displays, signs and other forms of advertising and, to the extent not prohibited by law, to come upon any portion of the 2028 West Division Condominiums for the purpose of showing the 2028 West Division Condominiums to prospective purchasers or lessees of Units, all without the payment of any fee or charge whatsoever other than the assessments payable by the Declarant with respect to Units owned by the Declarant. Such promotional efforts shall include, but not be limited to, decorating and maintaining Units as models for marketing and sales of Units and relocating such models as they are sold to other unsold Units.

9.3 **Construction:** Declarant, its agents and contractors shall have the right to come upon the 2028 West Division Condominiums to construct improvements thereon and to make alterations, repairs or improvements to the 2028 West Division Condominiums and shall have the right to store equipment and materials used in connection with such work on the 2028 West Division Condominiums without payment of any fee or charge whatsoever.

9.4 **Board Appointment:** The Declarant shall have the exclusive right and duty to designate, elect, qualify, appoint, remove, substitute, replace and otherwise control the three (3) sole and exclusive Members of the Board until such time as the First Meeting of the Unit Owners (which shall occur no later than thirty (30) days after the Relinquish Date) and the election of the initial Board as provided for in the By-Laws, the rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board by the Law, this Declaration or the By-Laws shall be held and performed by the Declarant.

9.5 **Declarant's Leasing of Units:** Prior to the Relinquish Date, Declarant, or a successor in interest, may lease Units owned by Declarant on such term as it deems appropriate.

ARTICLE X

Amendments

10.1 **Special Amendment:** Declarant reserves the right and power to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association (Fannie Mae), the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Administration, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee First Mortgages covering Unit Ownerships, (iii) to bring this Declaration into compliance with the Law, or (iv) to correct errors, ambiguities, inconsistencies or omissions in this Declaration or any Exhibit thereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Unit Owner as attorney-in-fact. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and record Special Amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section shall terminate at such time as the Declarant no longer holds or controls title to a portion of the 2028 West Division Condominiums.

10.2 Amendment by Unit Owners:

(a) Subject to the provisions of Section 8.2 and 10.1 except as otherwise provided in the Law, this Declaration may be amended, modified, enlarged or otherwise changed in whole or in part by the affirmative vote of Voting Members (either in person or by proxy), or by an instrument executed by Unit Owners, representing at least 67% of the Undivided Interests; except that the provisions relating to the rights of Declarant may be amended only upon the written consent of the Declarant.

(b) No amendment shall become effective until Recorded.

ARTICLE XI

Miscellaneous

11.1 **Severability:** Invalidation of all or any portion of any of the easements, restrictions, covenants, conditions and reservations, by legislation, judgment or court order shall not affect any liens, charges, rights, benefits and privileges

and other provisions of this Declaration, which shall remain in full force and effect.

11.2 Notices: Any notice sent to any Unit Owner under the provisions of this Declaration shall be deemed to have been properly given when mailed, postage prepaid, to the last known address of such Unit Owner as it appears on the records of the Association at the time of such mailing, or upon delivery by special courier or overnight delivery service to the Unit Owners Unit.

11.3 Exhibits: The following exhibits are either attached hereto or to the last known address such Unit owner as it appears on the records of the Association at the time of such mailing, or upon delivery of special courier or overnight delivery service to the Unit Owners Unit.

11.4 Captions/Conflicts: The Article and Section headings herein are intended for convenience only and shall not be construed with any substantive effect in this Declaration. In the event of any conflict between the statements made in the recitals to this Declaration and the provisions contained in the body of this Declaration, the provisions contained in the body of this Declaration shall govern.

11.5 Assignment by Declarant: All rights that are specified in this Declaration to be rights of the Declarant are assignable or transferable. Any successor to, or assignee of, the rights of the Declarant hereunder (including, whether by foreclosure or deed-in-lieu of foreclosure) shall hold or be entitled to exercise the rights of Declarant hereunder as fully as if named as such party herein. No party exercising rights as Declarant hereunder shall have or incur any liability for the acts of any other party that previously exercised or subsequently shall exercise such rights. Transfer of a deed to a Unit shall not be deemed to transfer any of the Declarant's rights to act as the Declarant hereunder.

- | | |
|------------|---|
| Exhibit A: | Legal Description of the Residential Property |
| Exhibit B: | Survey |
| Exhibit C: | Schedule of Units and Undivided Interests |
| Exhibit D: | By-Laws of 2028 West Division Condominium Association, Inc. |
| Exhibit E: | Rules and Regulations |

End of page

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed on this 1st day of MAY 2010.

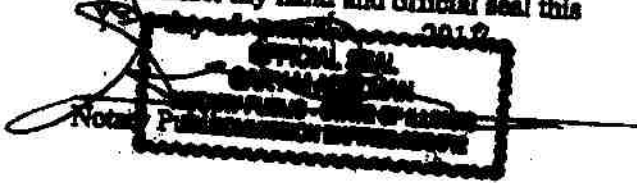
2028 30 West Division Properties LLC
an Illinois Limited Liability Company
By [Signature]
Robert C Ranquist III
Its Manager

STATE OF ILLINOIS

COUNTY OF LAKE

I, GARY M. ADELMAN, a Notary Public in and for the County and State aforesaid, DOES HEREBY CERTIFY that Robert C. Ranquist III Manager of 2028 30 WEST DIVISION PROPERTIES LLC, an Illinois Limited Liability Company personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me on this day in person and severally acknowledged that he signed and delivered the said instrument as his free will and voluntary act, and as the free and voluntary act and deed of said Company for the uses and purposes therein set forth.

Given under my hand and official seal this



CONSENT TO RECORD
2028 WEST DIVISION CONDOMINIUM
DECLARATION OF CONDOMINIUM OWNERSHIP
BYLAWS AND RULES AND REGULATIONS

The undersigned David Pinkerton, as Executive Vice President, of Lakeside Bank, hereby states that he has reviewed the Declaration of Condominium Ownership, bylaws and rules and regulations for 2018 West Division Condominium, and as said executive vice president consents to the recording of said document

Lakeside Bank

David Pinkerton
By David Pinkerton
Executive Vice President

State of Illinois)
)
County of Cook)

I KAREN J. VENETCH, a Notary Public in and for the County and State aforesaid DOES HEREBY CERTIFY that David Pinkerton, Executive Vice President of Lakeside Bank an Illinois financial institution is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me on this day in person and severally acknowledged that he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act and deed of said Lakeside Bank for the uses and purposes therein set forth.

Karen J. Venetch
Notary Public

Given under my hand and official seal this
17th day of FEBRUARY 2011

Karen J. Venetch
Notary Public

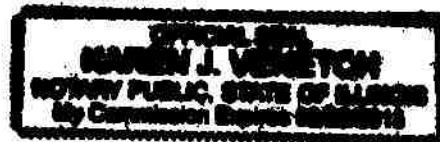


EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY:

LOTS 14 AND 15 IN BLOCK 2 OF W. D. KERFOOT'S SUBDIVISION OF 4 ACRES IN THE SOUTHEAST CORNER OF THE NORTHWEST ¼ OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, AS PER PLAT RECORDED IN BOOK 3 OF PLATS PAGE 27, IN COOK COUNTY, ILLINOIS.

EXCEPTING FROM THE ABOVE MENTIONED PARCELS THAT PART OF LOTS 14 AND 15 IN BLOCK 2 IN W. D. KERFOOT'S SUBDIVISION OF 4 ACRES IN THE SOUTHEAST CORNER OF THE

NORTHWEST ¼ OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, KNOWN AS COMMERCIAL, LYING AT AND ABOVE A HORIZONTAL PLANE AT ELEVATION +17.40 FEET (CITY OF CHICAGO DATUM) AND LYING AT AND BELOW A HORIZONTAL PLANE AT ELEVATION +28.45 FEET (CITY OF CHICAGO DATUM), MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT IN THE FINISHED SURFACE OF INTERIOR WALLS OF 4 STORY CONC. BLOCK BUILDING (COMMONLY KNOWN AS 2028-30 W. DIVISION ST.), SAID POINT BEING 1.90 FEET NORTH AND 6.87 FEET WEST FROM THE SOUTH EAST PROPERTY CORNER; THENCE WEST 4.39 FEET; THENCE SOUTH 1.00 FEET; THENCE WEST 5.17 FEET; THENCE NORTH 1.00 FEET; THENCE WEST 0.63 FEET; THENCE SOUTH 1.00 FEET; THENCE WEST 16.03 FEET; THENCE NORTH 1.00 FEET; THENCE WEST 0.63 FEET; THENCE SOUTH 1.00 FEET; THENCE WEST 5.21 FEET; THENCE NORTH 1.00 FEET; THENCE WEST 4.78 FEET; THENCE NORTH 27.68 FEET; THENCE EAST 10.28 FEET; THENCE SOUTH 1.00 FEET; THENCE EAST 8.90 FEET; THENCE NORTH 6.69 FEET; THENCE EAST 5.21 FEET; THENCE NORTH 1.01 FEET; THENCE EAST 3.27 FEET; THENCE SOUTH 8.84 FEET; THENCE EAST 0.77 FEET; THENCE NORTH 9.13 FEET; THENCE EAST 6.35 FEET; THENCE SOUTH 9.13 FEET; THENCE EAST 2.10 FEET; THENCE SOUTH 25.54 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

(ALL CALLS ARE DESCRIBED ALONG THE FINISHED INTERIOR WALLS).

PIN

17-26-129-028-0000

17-26-129-036-0000

EXHIBIT C
ESTIMATED
PERCENTAGE OF UNIT COMMON ELEMENT OWNERSHIP

Unit 201.....	14.17
Unit 202.....	15.35
Unit 301.....	16.06
Unit 302.....	15.35
Unit 401.....	18.66
Unit 402.....	18.18
PU1	00.25
PU 2	00.25
PU 3	00.25
PU 4	00.25
PU 5	00.48
PU 6	00.25
PU 7	00.25
PU 8	<u>00.25</u>
Total	100%

**EXHIBIT D
BY-LAWS**

OF

2028 WEST DIVISION CONDOMINIUM ASSOCIATION

ARTICLE I

**Members
(Unit Owners)**

1. **ELIGIBILITY.** The members of the 2028 WEST DIVISION CONDOMINIUM ASSOCIATION, an Illinois not-for-profit corporation (the "Association"), shall consist of the respective Unit Owners of the property known as 2028 WEST DIVISION CONDOMINIUMS and located in Chicago, Illinois (the "Real Estate"), and shall have one class of membership. Except as otherwise provided in these By-Laws, any term used in these By-Laws and not defined herein shall have the meaning ascribed to such term in the Declaration of Condominium Ownership for 2028 WEST DIVISION CONDOMINIUMS (the "Declaration"), as same may be amended.

2. **SUCCESSION.** The membership of a Unit Owner in the Association shall terminate when such Unit Owner ceases to be a Unit Owner, and, upon the sale, transfer or other disposition of such Unit Owner's ownership interest in the Property, said Unit Owner's membership in the Association shall automatically be transferred to the new Unit Owner succeeding to such ownership interest. Notwithstanding the preceding sentence, the purchaser of a Unit from a seller other than Declarant pursuant to an installment contract for purchase, during such times as such purchaser resides in the Unit (if the Unit is a Residential Unit) or uses such Unit for parking an Automobile (if such Unit is a Parking Unit), shall have the following rights: the right to be counted toward a quorum for purposes of election of members of the Board at any meeting of the Unit Owners called for purposes of electing members of the Board; the right to vote for the election of members of the Board; and the right to be elected to and serve on the Board. In no event may the seller and purchaser both be counted toward a quorum, both be permitted to vote for a particular office or both be elected and serve on the Board. Satisfactory evidence of an installment contract shall be made available to the Association or its agents. An installment contract shall have the same meaning as set forth in the Dwelling Unit Installment Contract Act of the State of Illinois, 765 ILCS 75/1. Notwithstanding anything herein contained to the contrary, the termination of membership in the Association shall not relieve or release any former Unit Owner from any liability or obligation of such former Unit Owner under the Declaration with respect to the period that such former member was a Unit Owner.

3. **REGULAR MEETINGS.** The first annual meeting of Association members (the "First Meeting") may be held subject to the terms hereof, on any date, at the option

of the First Board (hereinafter defined), provided, however, that said First Meeting shall be held not more than sixty (60) days after Declarant has consummated the sale of, and delivered deeds for, at least 75% of the Units, or three (3) years after the recording of the Declaration, whichever shall first occur. For purposes of this provision, 75% of the Units shall mean Units and Parking Units which correspond, in the aggregate, to 75% of the undivided ownership of the Common Elements appurtenant to the Units. Subsequent to the First Meeting, there shall be a regular annual meeting of Unit Owners held in the month of November in each year. All such meetings of Unit Owners shall be held at such place in Cook County, Illinois, and at such time, as specified in the written notice of such meeting, which notice shall be delivered to all Unit Owners at least ten (10) days and not more than thirty (30) days prior to the date of such meeting.

4. SPECIAL MEETINGS. Special meetings of the Unit Owners may be called at any time after the First Meeting by the president of the Association, by a majority of the Board or by twenty percent (20%) of the Unit Owners. Said special meetings shall be called by delivering written notice to all Unit Owners not less than ten (10) days or more than thirty (30) days prior to the date of said meeting, stating the date, time and place of said special meeting and the matters to be considered.

5. DELIVERY OF NOTICE OF MEETING. Notice of a meeting may be delivered either personally or by mail to a Unit Owner at the address given to the Board by said Unit Owner for such purpose, or to the Unit Owner's Unit, if no address for such purpose has been given to the Board. If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States Mail addressed to the Unit Owner at their address as aforesaid, with postage prepaid thereon.

6. VOTING. The aggregate number of votes for all Unit Owners shall be one hundred (100), and shall be divided among the respective Residential Unit Owners and Garage Parking Owners in accordance with their respective percentage of ownership interest in the Common Elements, as set forth in Exhibit C of the Declaration, as said Exhibit C may be amended from time to time. If any Unit Owner consists of more than one person, then if only one of the multiple owners of such Unit is present at a meeting of the Association, such owner shall be entitled to cast all of the votes allocated to that Unit. In the event more than one owner of a Unit is present, the votes allocated to that Unit may be cast only in accordance with the agreement of the majority in interest of the group of owners comprising the Unit Owner. Majority agreement shall be deemed to have occurred if any one of the multiple owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit. Declarant may exercise all voting rights with respect to the Units owned by it from time to time. Unless otherwise expressly provided herein, any action may be taken at a meeting of the Unit Owners at which a quorum is present upon the affirmative vote of the Unit Owners having a majority of the total votes present and voting at such meeting; provided, however, that the approval of not less than 66 2/3% of the members shall be required for the following matters: (i) the merger or consolidation of the Association; (ii) the sale, lease, exchange or other disposition (excluding the mortgage or pledge) of all, or

substantially all, of the property and assets of the Association; and (iii) the purchase or sale or lease of Units or other real estate on behalf of all Unit Owners.

Notwithstanding the foregoing in the event 30% or fewer of the units, by number, possess over 50% in the aggregate of the votes in the association, any percentage vote of members specified herein or in the condominium instruments shall require the specified percentage by number of units rather than by percentage of interest in the common elements allocated to units that would otherwise be applicable.

7. **QUORUM.** A quorum of Unit Owners for any meeting shall be constituted by Unit Owners, represented in person or by proxy, holding twenty percent (20%) of the votes entitled to be cast at such meeting. If a quorum is not present at any meeting of members, a majority of the members present may adjourn the meeting from time to time without further notice.

8. **PROXIES.** At any meeting of Unit Owners, a member of the Association entitled to vote may vote in person or by proxy executed in writing by the member or by their duly authorized attorney-in-fact, and in accordance with any rules and regulations. No proxy shall be valid after eleven months from the date of its execution. Any proxy distributed by the Board for the election of directors shall give Unit Owners the opportunity to designate any person as the proxy holder, and shall give the Unit Owners the opportunity to express a preference for any of the known candidates for the Board or to write in a name.

ARTICLE II

Board of Directors

1. **GENERAL POWERS.** The affairs of the Association shall be managed by its board of directors (referred to in the Condominium Property Act of the State of Illinois as the "board of managers," and sometimes referred to herein as the "Board").

2. **NUMBER, ELECTION AND TERM OF OFFICE.** Until the First Meeting, the number of members of the Board ("directors" shall be three (3), and said directors shall be the three directors names in the articles of incorporation of the Association (or, in the event of a vacancy on the Board prior to the election of directors at the First Meeting, such successor as shall be appointed by Declarant). The directors named in the articles of incorporation and such successors thereof as shall be named by Declarant are herein sometimes called the "First Board." Representation on the Board for all of the Unit Owners and to effectuate the intent of the Declaration, commencing with the First Meeting, the number of members of the Board shall be increased to, and shall consist of, four (4) directors, who shall be chosen by the Unit Owners, and who shall be chosen by the Unit Owners, and consist of the Commercial property Owner, said Commercial property owner shall not have a vote on said Board. Notwithstanding anything to the contrary in these By-Laws, commencing with directors elected at the First Meeting, the directors shall be classified with respect to the time for which they severally

hold office into two classes, with each director in each class to hold office until their successor is elected and qualified. At the First Meeting, all four (4) members of the Board shall be elected. The two directors receiving the highest number of votes at the First Meeting shall hold a term expiring two years after the First Meeting, the one directors receiving the next highest number of votes at the First Meeting shall hold a term expiring one year after the First Meeting, the Commercial owner shall hold office as long as they are in title to the Commercial Property. Any member of the Board may succeed himself. At each annual meeting of members after the First Meeting, the successors of the class of directors whose term expires at such meeting shall be elected, by a vote of a plurality of the members to be held in the second year following the year of their election. Any candidate for election to the Board, or such candidate's representative, shall have the right to be present at the counting of the ballots at such election. The Association may, upon the adoption of the appropriate rules by the Board, conduct elections by secret ballot whereby the voting ballot is marked only with the percentage interest for the Unit and the vote itself, provided the Board further adopts rules to verify the status of the Unit Owner issuing a proxy or casting a ballot.

3. QUALIFICATION. Each director, except for members of the First Board, shall be a Unit Owner, except as to the Commercial Property Owner as provided for in Section 2 of this Article II (or, if a Unit Owner is a corporation, limited liability company, partnership or trust, a director may be an individual who is an officer, member, partner, or beneficiary of such Unit Owner). If a director shall cease to meet such qualifications, he shall thereupon cease to be a director, and their place on the Board shall be deemed vacant.

4. VACANCIES; REMOVAL.

(a) (i) Prior to the First Meeting, a vacant position on the Board may only be filled by a person appointed by Declarant, (ii) After the First Meeting, any vacancy occurring in the Board may be filled only with a Unit Owner or any other person meeting the qualifications set forth in Section 3 above, in accordance with the provisions of this subsection 4(a) (ii). Such vacancy shall be filled by the Unit Owners present at the meeting at which the vacancy occurs, subject to the rights of the Commercial Property Owner, the next annual meeting or a special meeting of the Unit Owners called for such purpose. Such vacancy may also be filled by the Board by not less than a 66 2/3% vote of the remaining directors, which vacancy shall be filled until the next annual meeting of members or for a period terminating no later than thirty (30) days following the filing of a petition signed by Unit Owners holding twenty percent (20%) of the votes of the Association requesting a meeting of the Unit Owners to fill such a vacancy for the balance of the term. A meeting of the Unit Owners shall be called for purposes of filling such vacancy on the Board no later than thirty (30) days following the Unit Owners' filing of a petition signed by Unit Owners holding twenty percent (20%) of the votes of the Association requesting such a meeting. Notwithstanding anything contrary in this paragraph, in the event the vacant position on said Board is that of the Commercial Building, then said vacancy shall be filled by the then owner of said Commercial Building or their duly authorized representative.

(b) From and after the date of the First Meeting, any director may be removed from office by the affirmative vote of 66 2/3% of all the members, subject to the rights of the Commercial Property Owner.

5. **MEETINGS.** A regular annual meeting of the Board shall be held without other notice than these By-laws immediately after, and at the same place as, the annual meeting of members. The Board shall hold at least an additional three (3) meetings annually, and the Board may provide by regulations which the Board may, from time to time, adopt, the time and place for the holding of such regular meetings of the Board without other notice than such regulation. Special meetings of the Board shall be held upon a call by the president of the Association or by twenty-five percent (25%) of the directors. All meetings, whether regular or special, of the Board shall be open to all members, except for the portion of any meeting held (a) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such action is probable or imminent, (b) to consider information regarding appointment, employment or dismissal of any employee or (c) to discuss violations of rules and regulations of the Association or unpaid assessments owed to the Association, provided that the vote on any such matter shall be taken at a meeting or portion thereof open to any member. Any member may record the proceedings at meetings open to members, by tape, film or other means, subject to reasonable rules and regulations of the Board.

6. **COMPENSATION.** Directors shall receive no compensation for their services unless expressly provided for in resolutions duly adopted by two-thirds (2/3) of all Unit Owners.

7. **QUORUM.** A majority of the directors shall constitute a quorum of the Board, The Commercial Property Owner, shall not be included in the number of Board Members required to constitute a Quorum.

8. **NOTICE.** Notice of any special meeting of the Board shall be given at least forty-eight hours prior thereto by written notice delivered personally or sent by mail to each director. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these bylaws. Written notice of any meeting of the Board at which the adoption of the proposed annual budget or any increase or establishment of an assessment is to be considered shall be mailed or delivered to all members not less than ten (10) and nor more than thirty (30) days prior to any such meeting. Written notice of other meetings of the Board shall be delivered or given to each member at least 48 hours prior thereto,

subject to written waiver of such notice signed by the person or persons entitled thereto received by the Board prior to such meetings. Copies of notices of meetings of the Board shall be posted in the entranceway, elevators or other conspicuous place in the Building at least forty-eight hours prior to the meetings.

9. **NON-DELEGATION.** Nothing in this Article or elsewhere in these By-laws shall be considered to grant to the Board, the directors or the officers of the Association any powers or duties, which, by law, have been delegated to the Unit Owners.

10. **MANNER OF ACTING.** The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board, except as otherwise provided by law, the Declaration of these By-Laws.

11. **GENERAL POWERS AND DUTIES.** Without limiting the general powers which may be provided by law, this Declaration or the Act, the Board shall have the following general powers and duties:

(a) to elect and remove the officers of the Association, as hereinafter provided; (b) to administer the affairs of the Association and the Property; (c) to formulate policies for the administration, management and operation of the Property, including the Common Elements, and to provide for the implementation thereof; (d) to engage the services of a manager or managing agent who shall manage and operate the Property for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve; provided, however, that no agreement for professional management of the Property shall exceed a period of three years, and any such agreement shall be terminable by either party without cause and without payment of a termination fee upon ninety days prior written notice; (e) to adopt administrative rules and regulations governing the administration, management, operation and use of the Property, and to amend such rules and regulations from time to time; provided that no such rules or regulations shall be adopted or amended until after a meeting (at which a quorum shall not be required) of the Unit Owners called for the specific purpose of discussing the proposed rules and regulations, notice of which meeting shall contain the full text of the proposed rules and regulations, which notice shall be in the form, and sent to the persons within the time period, required for meetings of the Association; further provided, that no rules or regulations may impair any rights guaranteed by the First Amendment to the Constitution of the United States or Section 4 of Article I of the Constitution of the State of Illinois; (f) to provide for the maintenance, repair, upkeep, improvement and replacement of the Common Elements, including, without limitation, the Recreational Facilities, and payment therefore, and to approve payment vouchers or to delegate such approval to the officers of the Association or to the manager or managing agent; (g) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property, including the Common Elements, and to delegate any such powers to the manager or managing agent (and any employees of the manager or managing agent); (h) to estimate the amount of the annual budget, to provide

the manner of assessing and collecting from the Unit Owners their respective shares of such estimated expenses, as hereinafter provided, and to provide for reasonable reserves in accordance with the provisions of the Declaration, these By-Laws and the Act; (i) to lease, sell, mortgage, encumber or otherwise deal with Units controlled by the Association; (j) to grant easements, leases, licenses and concessions with respect to portions of the Common Elements, and to designate areas of the Common Elements to be used for specific purposes; (k) to seek relief, upon its own authorization or upon authorization by a Majority of the Unit Owners at a meeting duly called for such purpose, from or in connection with the assessment or levy of real estate taxes, special assessments and other levies or assessments of the State of Illinois or any political subdivision thereof or any lawful taxing or assessing body, on behalf of and at the expense of all of the Unit Owners; (l) to appoint committees of the Board, and to delegate to such committees the Board's authority to carry out certain duties of the Board; (m) to determine the fiscal year of the Association, and to change said fiscal year from time to time as the Board deems advisable; (n) unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Unit Owners, as expressed in a resolution duly adopted at any annual or special meeting of the Unit Owners; (o) to disseminate to Unit Owners biographical and background information about candidates for election to the Board if: (i) no preference is expressed in favor of any candidate; and (ii) reasonable efforts to identify all candidates are made, and all candidates are given an opportunity to include such information to be disseminated; (p) to establish and maintain demand deposit accounts or savings accounts, or functionally similar accounts such as money market accounts, at federally-insured banks; (q) to impose charges for late payments of a Unit Owner's proportionate share of the estimated cash requirements, and, after notice and an opportunity to be heard, levy reasonable fines for violation of the Declaration, By-Laws or rules and regulations of the Association; (r) to obtain and maintain such hazard insurance, liability insurance, workmen's compensation insurance, fidelity insurance and other insurance as the Board may be required to obtain by the Act or by the Declaration or that the Board may deem advisable; (s) to assign the Association's right to future income, including the right to receive assessments; (t) to invest any funds of the Association in certificates of deposit, money market funds or comparable investments; (u) to pay real property taxes, special assessments and any other taxes or charges of the State of Illinois or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon the Property; (v) to establish and maintain a system of master metering of public utility services, and collect payments in connection therewith, subject to the requirements of the Tenant Utility Payment Disclosure Act; (w) to represent the Association, or appoint or engage representatives on behalf of the Association in regard to matters with the owner of the Commercial Property, or the occupants thereof, within the Building in which the Units and Garage Units are located, (x) to exercise all other powers and duties of the Board or Unit Owners as a group referred to in the Act, and all powers and duties of the Board referred to in the Declaration of these By-Laws or the Business Corporation Act and Not-For-Profit Corporation Act of Illinois, and to perform all acts to implement the foregoing.

ARTICLE III

Officers

1. **DESIGNATION.** At each annual meeting of the Board, the directors present at said meeting shall elect from among the directors the following officers of the Association by a majority vote:

(a) a President, who shall preside over the meetings of the Board and of the Unit Owners, and who shall be the chief executive officer of the Association, and who may execute, with the Secretary or any other proper officer of the Association authorized by the Board, any deed, mortgage, contract, amendment to the Declaration or Plat as provided in the Act, or other instruments which the Board has authorized to be executed, and who, in general, shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board from time to time;

(b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Unit Owners, and who shall be the custodian of the records of the Association, and who shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law, and who shall receive all notices on behalf of the Association, and who, together with the President, may execute on behalf of the Association any deed, mortgage, contract, amendment to the Declaration or Plat as provided in the Act, or other instruments which the Board has authorized to be executed, and who shall, in general, perform all the duties incident to the office of Secretary;

(c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; and

(d) such additional officers as the Board shall see fit to elect.

2. **POWERS.** The respective officers shall have the general powers usually vested by statute or practice in such officers; provided, that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

3. **TERM OF OFFICE.** Each officer shall hold office for the term of one year and until their successor shall have been appointed or elected and qualified. Any officer may succeed himself. An officer may resign their office but maintain their status as director.

4. **VACANCIES.** Vacancies in any office shall be filled by the Board by a majority vote of the directors at a special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he or she succeeds. Any officer may be removed for cause at any time by the Board at a special meeting thereof.

5. **COMPENSATION.** The officers shall receive no compensation for their services, unless expressly provided for in a resolution duly adopted by two-thirds (2/3) of all Unit Owners.

ARTICLE IV

Assessments

1. **ANNUAL BUDGET.** The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated common expenses and cash requirements for the year, including salaries, wages, payroll taxes, legal and accounting fees, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance fuel, power, any expenses incurred in connection with the operation of any and all other common expenses. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board and in accordance with the Act. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding year shall be no more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The estimated annual budget for each fiscal year and any amendments or changes thereto shall be approved by the Board.

2. **ASSESSMENTS.** On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Unit Owner shall pay, as their respective monthly assessment for the common expenses for such year, one-twelfth (1/12th) of their proportionate share of the common expenses for such year, as shown by the annual budget. Such proportionate share for each Unit Owner (except as provided below for Declarant) shall be in accordance with their respective ownership interest in the Common Elements, as set forth from time to time in Exhibit B of the Declaration. The Association shall have no authority to forbear the payment of assessments by any Unit Owner. From and after the date the Declaration is recorded and until the deed to the first Unit is transferred and recorded, Declarant shall pay, as said Declarant's respective aggregate monthly assessment for the common expenses, the amount of the actual operating expenses required to be paid during the previous month in connection with the operation of the Property. From and after the date the deed of the first Unit is transferred and recorded, Declarant, as the Unit Owner of any Units or as the owner of a beneficial interest in any Unit, shall pay the amount of assessment applicable to each said Unit due and payable for each month until transfer of said Unit, as such assessment is established by the Board pursuant to the terms of the Declaration and these By-Laws. Actual operating expenses shall mean those ordinary expenses attributed to the immediate fiscal period and shall not include capital expenditures, prepaid terms or inventory items to the extent attributable to subsequent fiscal periods.

Copies of said estimated annual budget and any amendments or changes thereto shall be furnished by the Board to each Unit Owner not less than thirty (30) days prior to the adoption of said annual budget or amended or changed annual budget by the Board. In

the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of their respective existing monthly assessment. No Unit Owner shall be relieved of their obligation to pay their assessment by abandoning or not using their Unit, Parking Unit or the Common Elements. The provisions of this Section 2 of Article IV that affect the amount or manner of payment of the assessments payable hereunder by Declarant or which affect the amount or manner of payment of Declarant's proportionate share of the common expenses shall not be changed, amended or modified without the prior written consent of Declarant.

If an adopted annual budget or any separate assessment adopted by the Board would result in the sum of all regular and separate assessments payable in the fiscal year covered by such budget exceeding one hundred fifteen percent (115%) of the sum of all regular and separate assessments payable during the preceding fiscal year, the Board, upon written petition by Unit Owners with twenty percent (20%) of the votes of the Association delivered to the Board within fourteen (14) days of the Board's action in adopting such regular or separate assessments, shall call a meeting of the Unit Owners within thirty (30) days of the date of delivery of such petition to consider the annual budget or separate assessment. Unless a majority of the total votes of the Unit Owners are cast at such meeting to reject the budget or separate assessment, the budget and such separate assessment shall be deemed ratified.

Any Common Expense not set forth in the annual budget or any increase in assessments over the amount adopted in the annual budget shall be separately assessed against the Unit Owners.

Separate assessments for expenditures relating to emergencies or mandated by law may be adopted by the Board without being subject to Unit Owner approval or other requirements as described in this section. As used herein, "emergency" means an immediate danger to the structural integrity of the Common Elements or to the life, health, safety or property of the Unit Owners.

Assessments for additions and alterations to the Common Elements or to property owned by the Association not included in the annual budget adopted by the Board shall be separately assessed, and shall be subject to the approval of two-thirds (2/3) of the total votes of all Unit Owners. The Board may adopt separate assessments payable over more than one fiscal year.

3. PARTIAL YEAR OR MONTH. For the first fiscal year, the annual budget shall be as approved by Declarant. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly assessments for each Unit Owner shall be proportionate to the number of months and days in such period covered by such budget.

4. ANNUAL REPORT. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Unit Owner a statement for such year so ended,

showing the receipts and expenditures and such other information as the Board may deem desirable.

5. SUPPLEMENTAL BUDGET. In the event that during the course of any year it shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated common expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget pursuant to the terms of the Act covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a supplemental assessment budget shall be furnished to each Unit Owner, and thereupon a supplemental assessment shall be made to each Unit Owner for their proportionate share of such supplemental budget.

6. LIEN. It shall be the duty of every Unit Owner and Parking Unit Owner to pay their proportionate share of the common expenses, as assessed in the manner herein provided.

If any Unit Owner or Parking Unit Owner shall fail or refuse to make any such payment of the common expenses when due, the amount thereof, together with the amount of late fees, if any, shall constitute a lien, as provided in the Act, on the interest of such Unit Owner in the Property, and upon the personal property of such Unit Owner in their Unit and located elsewhere on the Property, which lien may be perfected and foreclosed in the manner provided in Section 9 of the Act; provided, however, that such lien shall be subordinate to the lien of a prior recorded first mortgage or trust deed held by a First Mortgagee on the interest of such Unit Owner, except for the amount of the proportionate share of common expenses which become due and payable from and after the date of the recording of a deed in lieu of foreclosure or a foreclosure sale. The provisions of this paragraph of this Section 6 applicable to the priority of liens held by First Mortgagees shall not be amended, changed, modified or rescinded in any way without the prior written consent of all holders of first mortgage liens on Units on the Property.

The Association or its successors and assigns, or the Board or its agents, shall have the right to maintain a suit to foreclose any such lien, and there shall be added to the amount due the costs of said suits and other fees and expenses, together with legal interest and reasonable attorneys' fees to be fixed by the court. Furthermore, if any Unit Owner or Parking Unit Owner shall fail or refuse to pay when due their proportionate share of the common expenses and such Unit Owner or Parking Unit Owner withholds possession of their Unit after demand by the Board or the Association in writing setting forth the amount claimed, the Board or the Association shall have the right to possession of such Unit. The remedies as provided for in the Act, the Forcible Entry and Detainer Act, the Declaration or these By-Laws, or as are otherwise available at law or in equity for the collection of all unpaid assessments, late fees and collection costs.

7. RECORDS AND STATEMENT OF ACCOUNT. The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the common

expenses incurred. Payment vouchers may be approved in such manner as the Board may determine.

Upon receipt often (10) days written notice to the Board or the Association from a Unit Owner or from the encumbrancer of a Unit, and upon payment of a reasonable fee, the Board shall furnish to said Unit Owner or encumbrancer a statement of the account setting forth the amount of any unpaid assessments or other charges due and owing from said Unit Owner.

8. DISCHARGE OF LIENS. The Board may cause the Association to discharge any mechanic's lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Unit. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien. Any amounts due the Association hereunder shall constitute a lien on the interest of the Unit and/or Parking Unit of the responsible Unit Owner, which lien may be perfected and foreclosed in the manner provided in Section 9 of the Act with respect to liens for failure to pay a share of the common expenses. Any such lien shall be junior and subordinate to the lien of the First Mortgagee with respect to such Unit.

9. HOLDING OF FUNDS. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the sole benefit, use and account of all the Unit Owners in the percentages set forth from time to time in Exhibit B to the Declaration.

10. CAPITAL CONTRIBUTIONS. Upon the closing of the first sale of each Unit by Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Association in an amount equal to one-sixth (1/6) of the proportionate share of the Common Expenses for the current year attributable to the Unit. Said amount shall be held used by the Association for its working capital needs.

ARTICLE V

Contracts, Checks, Deposits and Funds

1. CONTRACTS. The Board may authorize any officer of officers, agent or agents of the Association, in addition to the officers so authorized by these By-Laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

2. CHECKS, DRAFTS, ETC. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the

Association shall be signed by such officer or officers, agent or agents of the Association, and in such manner, as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the treasurer and countersigned by the president of the Association.

3. **DEPOSITS.** All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may select.

4. **GIFTS.** The Board may accept on behalf of the Association any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Association.

5. **INTERESTED DIRECTORS.** At any time after the First Meeting, the Board may not enter into a contract with a current director or with a corporation, partnership or limited liability company in which such director or a member of such director's immediate family has a twenty-five percent (25%) or more interest unless (a) notice of intent to enter into such contract, and the Unit Owners are afforded an opportunity, within twenty days after such notice, to file a petition, signed by twenty percent (20%) of the Unit Owners, requesting an election to approve or disapprove of such contract; and (b) if the Unit Owners timely file such petition, an election of Unit owners is held to approve or disapprove such contract within thirty days after the filing of such petition, and, at such election, a majority of the Unit Owners approve such contract. For purposes of this Section 5, a director's "immediate family" means such director's spouse, parents and children.

ARTICLE VI

Books and Records

The Association shall keep correct and complete books and records of account; and shall also keep minutes of the proceedings of the Board and committees having any of the authority of the Board; and shall keep at the registered or principal office of record giving the names and addresses of the members entitled to vote. All books and records of the Association may be inspected by any member, or their agent or attorney, for any property purpose at any reasonable time.

ARTICLE VII

Use and Occupancy Restrictions

1. **GENERAL.** Each Unit Owner shall fully comply with the use and occupancy restrictions set forth in the Declaration, and any rules and regulations promulgated by the Board, all of which restrictions, rules and regulations are incorporated herein by reference. The provisions of this Section shall apply to any lessee of a Residential Unit.

2. RULES AND REGULATIONS. The Board shall have the power and authority to adopt, revise, amend, and rescind from time to time such rules and regulations as the Board, in its discretion, deems reasonable to promote the common enjoyment, safety, administration, and efficient operation of the Property, and to adopt penalties, fines, late charges and other remedies, to the extent permitted by law, for the enforcement of the provisions of the Declaration and the rules and regulations adopted by the Board.

ARTICLE VIII

Amendments

Until the date of the First Meeting, these By-Laws may be altered, amended or repealed and new by-laws may be adopted, by the affirmative vote of a majority of the directors in office. From and after the date of the First Meeting, these By-Laws, except this Article VIII and Article X, may be altered, amended or repealed, and new bylaws may be adopted, from time to time by action or approval of two-thirds (2/3) of all of the members of the Association at a regular meeting or special meeting of members of the Association, except as otherwise indicated in these By-Laws.

ARTICLE IX

Indemnification

1. GENERAL. The Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association), by reason of the fact that he or she is or was a director, an officer of the Association, against expenses (including attorneys' fees and expenses), judgments, fines, and amounts paid in settlement actually and reasonably incurred by or imposed on them in connection with such action, suit or proceeding, provided said person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding had no reasonable cause to believe their conduct was unlawful. The termination of an action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not in good faith and in a manner which he or she reasonably believed to be in or not opposed the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that their conduct was unlawful.

The Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment a judgment in its favor by reason of the fact that he or she is or was a director, an officer of the Association or a member of any committee

appointed pursuant to the By-Laws of the Association, against expenses (including attorneys' fees and expenses) actually and reasonably incurred by them in connection with the defense or settlement of such action or suit provided said person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of their duty to the Association.

2. SUCCESS ON MERITS. To the extent that a director, an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees and expenses) actually and reasonably incurred by them in connection therewith.

3. DETERMINATION OF RIGHT TO INDEMNITY. Any indemnification under Sections 1 and 2 of this Article IX shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, the officer or the member of such committee is proper in the circumstances because he or she has met the applicable standard of conduct set forth in said Sections 1 and 2. Such determination shall be made (1) by the Board by a majority vote of a quorum consisting of those directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by a majority of the Unit Owners.

4. ADVANCE PAYMENT. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in the specific case upon receipt of an undertaking by or on behalf of the director, the officer or the member of such committee to be indemnified to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized in this Article IX.

5. NON-EXCLUSIVITY. The indemnification provided by this Article IX shall not be deemed exclusive of any other rights to which any person seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board or otherwise, both as to action in their official capacity and as to action in another capacity while holding such office. The indemnification provided by this Article IX shall continue as to a person who has ceased to be a member of the Board, an officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors and administrators, of such person.

ARTICLE X

Construction

Nothing hereinabove contained shall in any way be construed as altering, amending or modifying the Declaration. Said Declaration and these By-Laws shall always be construed to further the harmonious, beneficial, cooperative and proper use and conduct of the Property. If there is any inconsistency or conflict between these By-Laws and the aforesaid Declaration, the provisions of the Declaration shall control.

EXHIBIT E
RULES AND REGULATIONS
OF
2028 W DIVISION CONDOMINIUMS

1. **Use of Units**

a) No obnoxious or offensive activity shall be carried on in any Unit or in Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants or which disrupt any other Unit Owner's reasonable use and enjoyment of the Property. No Unit Owner shall over load the electric wiring in the Building, or operate any machine, appliance, accessory or equipment in such a manner as to cause, in the judgment of the Association, an unreasonable disturbance to others, nor shall and Unit Owner connect any machine, appliance, accessory or equipment to any common heating or cooling system or the plumbing system without the prior written consent of the Association. Nothing shall be done in any Unit or in the Common Elements which will impair the structural integrity of the Building or which would structurally change the Building except as is otherwise provided therein. No Unit Owner shall overload the floors of any Unit. Furnishings which may cause floor overloads shall be placed, kept or used in any Unit only in accordance with advance written Board approval.

b) In order to enhance the sound condition of the Building, the floor covering for all Residential Units shall meet certain minimum standards, as determined by the Board or Declarant. The Board or Declarant may revise such standards from time to time; provided, however, that any floor covering which is installed in compliance with the Board's or Declarant's then current standards shall not need to be removed or upgraded if stricter floor standards are later adopted by the Board.

c) No animals shall be raised, or kept in any Unit or in the Common Elements, except, in residential Units. Dogs and cats, and small birds and fish, shall be of a breed or variety commonly kept as household pets. Pets shall not be kept or bred for any commercial purpose, and are not allowed to run loose on the Property. Pets shall be kept in strict accordance with such other rules and regulations relating to household pets as may be from time to time adopted or approved by the Board, and do not, in the judgment of the Board, constitute a nuisance to others. Pitbulls are not permitted. The Board may compel any Unit Owner to take remedial action, including removal, of any animal that becomes a nuisance to others. Each Unit Owner and each Occupant shall be responsible for picking up after any animal kept in such Unit Owner's or Occupant's respective Unit, including, without limitation, removing and waste deposited by such animal anywhere on the Common Elements. Dogs must be kept on a leash while on any portion of the Common Elements.

d) No Unit Owner shall display, hang store or use any clothing, sheets, blankets, laundry or other articles outside their Unit or which may be visible for the

outside of their Unit (other than the backs of draperies, curtains, shades or other window treatment in a color or appearance, subject to the Rules and Regulations of the Board), or paint or decorate or adorn the outside of their Unit, with any radio or television antenna, or other equipment, without the prior written consent of the Board. No Owner of a Unit except as provided below, shall display, hang, store or use any sign outside their Unit, in a hallway or elsewhere, or which may be visible from the outside of their Unit, without the prior written permission of the Board. The exterior surfaces of perimeter doors shall be maintained in conformity with the common decorative style, color and material adopted by the Association, from time to time.

e) Trash, garbage and other waste shall be kept only in sanitary containers serving each Residential Unit and shall be disposed of in a clean and sanitary manner as prescribed from time to time in Rules and Regulations duly adopted by the Board.

f) Occupants shall notify the Association one week in advance of move in and move out schedules. Such schedules are subject to the availability of the elevator and other requirements of the Association. A move in and out deposit may be determined by the Association to secure the Association against damages to the Common Areas.

2. Exterior Doors

All entrance doors have locks with an access control system which cannot be easily duplicated. As you enter and leave the building, it is important to close the door firmly and not allow strangers to enter.

3. Alterations, Additions or Improvements

a) No alteration of any Common Element, or any addition or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board. The Board may authorize and charge as a Common Expense any alterations, additions or improvements of any of the Common Elements, as provided in the By-Laws. Any Residential Unit Owner may make structural alteration, additions or improvements within their Unit in accordance with such Rules and Regulations as the Board may from time to time adopt and only with the prior written permission of the Board: and each Residential Unit Owner shall be responsible for any damage to other Units, the Common Elements, the Building or any part thereof, resulting from such alterations, additions or improvements. Notwithstanding the foregoing, except as constructed or altered by or with the written permission of Declarant or Association, nothing shall be done in any Unit, or on, or to the Common Elements, which would impair the structural integrity, safety or soundness of the Building or which would structurally change the building. Unit Owners may make non-structural additions or improvements to their Unit without the prior written consent of the Board subject only to the Rules and regulations and By-Laws.

b) Construction, repair or other work within the Unit involving noises should be conducted between 8:00 AM to 5:00 PM, Monday through Friday and 10:00 AM to

5:00 PM on Saturday. The Association or Declarant in their sole discretion may allow times beyond these stated herein.

c) If construction or repairs generate quantities greater than usual household garbage, the Unit Owner shall arrange disposition at the Unit Owner's sole expense.

4. **Decorating**

Each Residential Unit Owner, at their own expense, shall furnish and be responsible for all decorating and cleaning within their own Residential Unit. The exterior surface of all windows shall be cleaned by the Association and treated as a common expense. Garage shall not be decorated in any manner, except as authorized by the Board.

5. **Garage Use**

Vehicles illegally parked are subject to being towed at owner's expense. Garage use is further subject to the provisions of all other Condominium Documents.

6. **Use of Common Elements**

Subject to the easement rights of the Owner of the Commercial Property as set forth in the CCR (as such term is defined in the Declaration of Condominium Ownership), the Common Elements shall be used only by the Unit Owners and their tenants, agents, servants, family members, licensees and invitees, and shall only be used for access and ingress to and egress from the respective Units and for such other purposes, including recreational purposes, incidental to residential use of the Units, as applicable. The use, maintenance and operation of the Common Elements shall not be obstructed, damages or unreasonably interfered with by any Unit Owner, nor shall anything be stored in the Common Elements without the prior written consent of the Board or except as hereinafter expressly provided. Articles of personal property belonging to any Unit Owner, such as baby carriages, bicycles, wagons, toys, clothing and other articles shall not be stored or kept on any area constituting part of the Common Elements, except as provided for by the Association.

7. **Emergency Access to Units**

Each Owner shall provide the Association with a key to their Unit, which the Association shall be authorized to use for only emergency access to a Unit. Emergencies may include, fire, repairs, pest extermination or water stoppage.

8. **Unit Leases**

Owners desiring to lease Residential Units shall notify the Board of the identity of the lessee, the terms of the lease, and such other information as the Board requires.

Lessees shall agree in writing to conform to the By-Laws and these Rules and Regulations.

9. **Insurance**

Each Owner shall have condominium owners insurance which includes liability for damage caused to other units by water leakage with companies licensed to do business in the State of Illinois and in amounts reasonably accepted by the Board. On request Owner's shall furnish a certificate of insurance

(End of document)



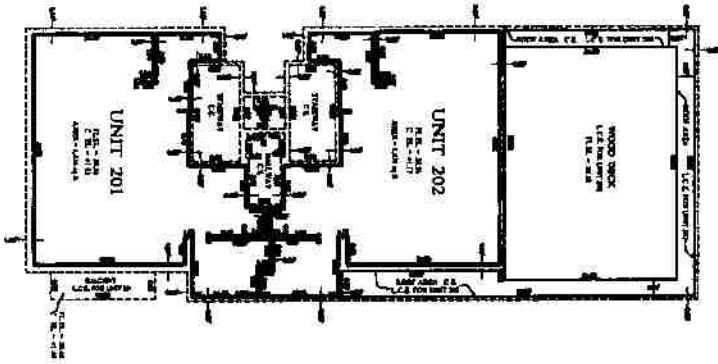
MM SURVEYING CO., INC.
 PROFESSIONAL DESIGN FIRM No. 184-002333
 PLAT OF SURVEY

COMMUNITY X CONSISTS OF 2018 S. AUSTIN ST., CHICAGO, ILLINOIS
 BOUNDARY POINT NUMBER: 11-34-128-2000-00000000, 11-34-128-2000-00000000
 TOTAL LAND AREA = 4,607 S.F.

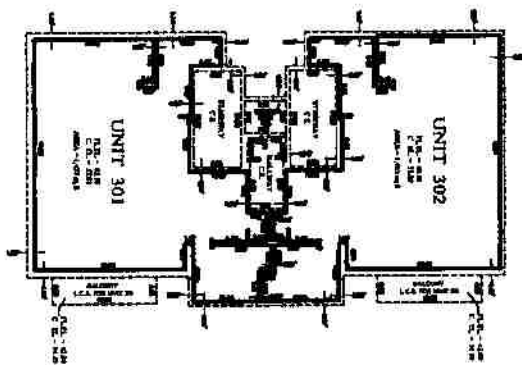
EXHIBIT "B"
 PAGE 2 OF 2

PHONE: 773.282-5990
 FAX: 773.282-5424

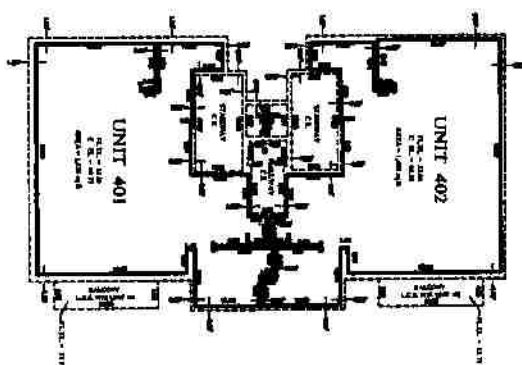
SECOND FLOOR



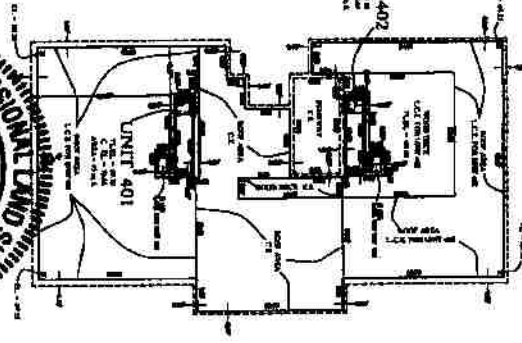
THIRD FLOOR



FOURTH FLOOR



ROOF LEVEL



77332
 10
 2011
 2011

BENCHMARK No. 202
 101.410 ± 11.022
 ELEV. = 11.022

LEGEND:
 F.L.B. - FLOOR ELEVATION
 C.E.L. - FINISH ELEVATION
 L.C.B. - LIGHTING CONDUIT SYMBOL
 C.B. - CONCRETE SYMBOL
 P - FINISH POINT

GENERAL NOTES:
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 2. ALL WALLS ARE 12" THICK UNLESS OTHERWISE NOTED.
 3. ALL DOORS ARE 36" WIDE UNLESS OTHERWISE NOTED.
 4. ALL WINDOWS ARE 48" WIDE UNLESS OTHERWISE NOTED.
 5. ALL STAIRS ARE 44" WIDE UNLESS OTHERWISE NOTED.
 6. ALL ELEVATIONS ARE TO FINISH UNLESS OTHERWISE NOTED.
 7. ALL SYMBOLS ARE TO BE USED AS SHOWN UNLESS OTHERWISE NOTED.
 8. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 9. ALL WALLS ARE 12" THICK UNLESS OTHERWISE NOTED.
 10. ALL DOORS ARE 36" WIDE UNLESS OTHERWISE NOTED.
 11. ALL WINDOWS ARE 48" WIDE UNLESS OTHERWISE NOTED.
 12. ALL STAIRS ARE 44" WIDE UNLESS OTHERWISE NOTED.
 13. ALL ELEVATIONS ARE TO FINISH UNLESS OTHERWISE NOTED.
 14. ALL SYMBOLS ARE TO BE USED AS SHOWN UNLESS OTHERWISE NOTED.

PROFESSIONAL LAND SURVEYOR
 ZBIGNIEW DOMKOZYCH
 CHICAGO ILLINOIS
 035-003798
 773-282-5990
 773-282-5424
 2011