

DECLARATION OF CONDOMINIUM  
OWNERSHIP AND OF EASEMENTS,  
RESTRICTIONS AND  
COVENANTS FOR

THE BERWYN CONDOMINIUM  
ASSOCIATION

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AND

DECLARATION OF BY-LAWS

THE BERWYN CONDOMINIUMS  
5224-28 N. WINTHROP  
CHICAGO, ILLINOIS 60640  
COOK COUNTY

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DATE 5-2-06 COPIES 6  
OK BY [Signature]

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**DECLARATION OF CONDOMINIUM OWNERSHIP AND  
OF EASEMENTS, RESTRICTIONS AND COVENANTS FOR  
NORTH WINTHROP MANOR CONDOMINIUMS**

**AND**

**DECLARATION OF BY-LAWS FOR  
THE BERWYN CONDOMINIUM ASSOCIATION**

**5224-28 N. WINTHROP  
CHICAGO, ILLINOIS 60640**

**WITNESSETH:**

This Declaration is made by LS & KW LLC, as Owner, and not individually, (hereinafter referred to as the "Owner") as owner of the following described property:

LOT 7, AND THE NORTH 12 - ½ FEET OF LOT 8, IN BLOCK 10 IN JOHN LEWIS COCHRAN'S SUBDIVISION OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY ILLINOIS

*14-08-210-013*

5224-28 N. WINTHROP CHICAGO, ILLINOIS 60640

Which Plat is attached as Exhibit 1 of Declaration of Condominium made by LS & KW LLC as owner in Cook County, Illinois.

WHEREAS, the Owner desires and intends by this Declaration to submit the Property, as hereinafter defined, to the provisions of the Condominium Property Act of the State of Illinois, as amended from time to time, (hereinafter called the "Act") and is further desirous of establishing, for its own benefit and that of all future owners or occupants of the Property, and each part thereof certain easements and rights in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the use and maintenance thereof; and

WHEREAS, the Owner desires and intends that the several owners, mortgagees, occupants and other persons acquiring any interest in the Property shall at all times enjoy the benefits of, and shall at all times hold their interest subject to, the rights, easements, privileges and restrictions hereinafter set forth all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of ownership and to facilitate the

proper administration of such Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property.

NOW, THEREFORE, the Owner, as the legal title holder of the parcel, and for the purposes above set forth, DECLARES AS FOLLOWS:

## ARTICLE I

### DEFINITIONS

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

- A. **Act.** Means the Condominium Property Act of the State of Illinois, as amended from time to time.
- B. **Declaration.** This instrument by which the Property is submitted to the provisions of the Act, including such amendments, if any, to this instrument as may from time to time be adopted pursuant to the terms hereof.
- C. **Parcel.** The entire tract of real estate above described which is hereby submitted to the provisions of the Act.
- D. **Building.** The building located on the Parcel, forming a part of the Property and containing the Units, as shown by the surveys depicting the respective floors of said Building.
- E. **Property.** All the land, property and the space comprising the Parcel, all improvements and structures erected, constructed or contained therein or thereon, including the Building, and all easements, rights, and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, submitted to the provisions of the Act.

- F. **Unit.** A part of the Property within the building including one or more rooms, occupying one or more floors or a part or parts thereof, designed and intended for any type of independent use, and more specifically described hereafter in Article II.

G. **Common Elements.** All portions of the Property, except the Units, and including the Limited Common Elements, unless otherwise expressly specified herein. The Common Elements include, without limitation, the land, foundations, walls, hallways, stairways, entrances and exits, mechanical equipment areas, elevator, storage areas, roof, master television antenna system (whether leased or owned), pipes, ducts, flues, shafts, electrical wiring and conduits (except pipes, ducts, flues, shafts, electrical wiring and conduits situated entirely within a Unit and serving only such Unit), public utility lines, structural parts of the Building, outside walks and driveways, landscaping and all other portions of the Property except the individual Units, structural columns located within the boundaries of a Unit shall be part of the Common Elements. Any references to "Common Elements" appearing on the Plat (except references to Limited Common Elements) shall be deemed solely for purposes of general information and shall not be limiting in any way, nor shall any such reference define the Common Elements in any way.

H. **Limited Common Elements.** Means a portion of the Common Elements so designated in this Declaration as being reserved for the use of a certain Unit or Units to the exclusion of other Units.

I. **Unit Ownership.** A part of the Property consisting of one Unit and the Undivided interest in the Common Elements appurtenant thereto.

J. **Person.** A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

K. **Unit Owner.** The person or persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a Unit Ownership. For the purposes of Article VIII hereof, the word "Unit Owner" shall include any beneficiary of a trust, shareholder of a corporation or partner of a partnership holding legal title to a Unit.

L. **Occupant.** Person or persons, other than a Unit Owner, in possession of a Unit.

M. **By-Laws.** The provisions for the administration of the Property, including, but not limited to, assessment, maintenance, use, occupancy, sale, leasing and alienation, all as hereinafter set forth, or as the same may be from time to time duly amended, the same to have full force and effect whether applied to or by the Trustee, the Developer, as hereinafter defined, the Board or the Association, as hereinafter defined. Articles V, VI and VII hereof shall constitute the By-Laws of the Association.

N. **Association.** THE BERWYN CONDOMINIUM ASSOCIATION

O. **Majority of the Unit Owners.** Those Unit Owners, without regard to their number, who own more than fifty percent (50%) in the aggregate of the entire undivided ownership interest in the Common Elements. Any specified percentage of the Unit Owners shall mean those Unit Owners who, in the aggregate, own such specified percentage of the entire undivided ownership interest in the Common Elements.

P. **Board.** The parties determined pursuant to Article V hereof, and who are vested with the authority and responsibility of administering the Property.

Q. **Common Expenses.** The proposed or actual expenses affecting the Property, including reserves, if any, lawfully assessed by the Board.

R. **Developers:** LS & KW LLC

## ARTICLE II

### UNITS

#### A. DESCRIPTION AND OWNERSHIP.

(1) All Units are delineated on the plat of survey attached hereto as Exhibit 1 and

listed on Exhibit 2, and shall have lawful access to a public way.

(2) Each Unit consists of the space enclosed and bounded by the horizontal and vertical planes set forth in the delineation thereof on Exhibit 1 as well as any pipes, ducts, flues, shafts, electrical wiring and conduits, and individual heating, cooling, and ventilation systems or equipment situated entirely within a Unit and serving only such Unit. The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown on Exhibit 1. Every deed, lease mortgage or other instrument may legally describe a Unit by its identifying number or symbol as shown on Exhibit A and every such description shall be deemed good and sufficient for all purposes.

(3) Except as provided by the Act, no Unit Owner shall, by deed, plat, court decree or otherwise, combine or subdivide or in any other manner cause his Unit to be separated into any tracts or parcels different from the whole Unit as shown on Exhibit 1; provided, that the Trustee may combine any part or all of a Unit owned by the Trustee for the purpose of increasing the size of a Unit owned by the Trustee and eliminating or reducing the size of another Unit owned by the Trustee. If a Unit owner or Unit Owners combine or subdivide his or their Units pursuant to the Act, they may, at their own expense, locate or relocate Common Elements affected or required thereby in accordance with the Act.

B. **Certain Structures Not Constituting Part of a Unit.** Except as a tenant in common with all other Unit Owners, no Unit Owner shall own any structural components of the Building, including structural columns or pipes, wires, conduits, ducts, flues, shafts, or public utility lines running through his Unit and forming a part of any system serving more than his Unit, or any components of communication, master antenna, or refuse collection systems, if any, located in his Unit, whether or not any such items shall be located in the floors, ceiling or perimeter or interior walls of the Unit.

C. **Real Estate Taxes.** It is understood that real estate taxes are to be separately taxed to each Unit Owner for his Unit and his corresponding percentage of ownership in the Common Elements as provided in the Act.

### ARTICLE III

#### COMMON ELEMENTS

- A. **Description.** The Common Elements include, without limitation, the land, foundation, walls, hallways, stairways, entrances and exits, mechanical equipment areas, Storage Areas, basements, boilers, the boiler room roofs, any master television antenna system whether leased or owned, incinerator, if any, pipes, ducts, flues, shafts, electrical wiring and conduits (except pipes, ducts, flues, shafts, electrical wiring and conduits situated entirely within a Unit and serving only such Unit), heating, cooling and ventilating systems (except those individual heating, cooling and ventilating systems or equipment entirely within a Unit and serving only such Unit and each sleeve air-conditioner serving only such Unit), public utility lines, structural parts of the Building, outside walks and driveways, landscaping and all other portions of the Property except the Units. Any reference to "Common Elements" appearing on the Plat shall be deemed solely for purposes of general information and shall not be limiting in any way.
- B. **Ownership of Common Elements.** Each Unit Owner shall be entitled to the percentage of ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner as set forth in Exhibit 2 attached hereto. The percentages of ownership interests set forth in such Exhibit 2 have been computed and determined in accordance with the Act and shall remain constant unless hereafter changed by a recorded amendment to this Declaration pursuant either to the provisions of Article II, A (3) or Article XII, 6. Each of such ownership interests in the Common Elements shall be an undivided interest, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentages of ownership. The ownership of each Unit shall not be conveyed separate from the percentage of ownership in the Common Elements corresponding to said Unit. The Undivided percentage of ownership in the Common Elements corresponding to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering said Unit may refer only to the fee title to that Unit.
- C. **Limited Common Elements.** The following portions of the Common Elements are hereby designated as Limited Common Elements; (i) the interior surface of all floors, walls and ceilings forming the boundaries of a Unit, and (ii) all doors, windows and glass in the walls forming the boundaries of a Unit; Parking Spaces which will be assigned as provided herein by the initial deed of conveyance. The use of Limited Common Elements may be transferred between Unit Owners at their expense in accordance with the provisions of the Act.

## ARTICLE IV

### GENERAL PROVISIONS AS TO UNITS

### AND COMMON ELEMENTS

- A. **Submission of Property to the Act.** The Property is hereby submitted to the provisions of the Condominium Property Act of the State of Illinois:

LOT 7, AND THE NORTH 12 - ½ FEET OF LOT 8, IN BLOCK 10 IN JOHN LEWIS COCHRAN'S SUBDIVISION OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY ILLINOIS

5224-28 N. WINTHROP CHICAGO, ILLINOIS 60640

- B. **No Severance of Ownership.** No Unit Owner shall execute any deed, mortgage, lease or other instrument affecting title to his Unit Ownership without including therein both his interest in the Unit and his corresponding percentage of ownership in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

(1) **Encroachments.** In the event that (i) by reason of the construction repair, reconstruction, settlement or shifting of the Building, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements, or any other Unit; or (ii) by reason of the design or construction of any Unit, it shall be necessary or advantageous to a Unit Owner to use or occupy any portion of the Common Elements for any reasonable use appurtenant to said Unit, which will not unreasonably interfere with the use or enjoyment of the Common Elements by other Unit Owners, or, if by reason of the design or construction of utility and ventilation systems, any pipes, ducts, flues, shafts, or conduits serving more than one Unit encroach or shall hereafter encroach upon any part of any Unit; then in any such case valid easements for the maintenance of such encroachment and for such use of the Common Elements are hereby established and shall exist for the



benefit of such Unit, or the Common Elements, as the case may be, so long as all or any part of the Building shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Elements be created in favor of any Unit Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Property by the other Unit Owners; or, if any such encroachment is created by the willful, or negligent act of an Owner

(2) **Easements for Utilities.** Illinois Bell Telephone Company, Commonwealth Edison Company, Peoples Gas Company and all other suppliers of utilities serving the Property are hereby granted the right to install, lay, construct, operate, maintain, renew, repair or replace, conduits, cables, pipes and wires and other equipment into, over, under, along and on any portion of the Common Elements for the purpose of providing the Property with utility services, together with the reasonable right of ingress to an egress from the Property for said purpose. The Trustee, Board or Association may hereafter grant other or additional easements for utility purposes for the benefit of the Property, over, under, along and on any portion of said Common Elements, and each Owner hereby grants the Trustee, Board or Association an irrevocable power of attorney to execute, acknowledge and record for and in the name of such Unit Owners, such instruments as may be necessary to effectuate the foregoing. Easements are also hereby declared and granted to install, lay, operate, maintain, repair and replace any pipes, wire, ducts, flues, shafts, conduits, public utility lines, components of the communications system, if any, or structural components, which may run through the walls of a Unit, whether or not such walls lie in whole or in part within the Unit boundaries.

(3) **Easements to Run with Land.** All easements and rights described herein are easements appurtenant running with the land, and so long as the Property is subject to the provisions of this Declaration, shall remain in full force and effect, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Unit Owner, purchaser, mortgage and other person having any interest in the Property, or any part or portion thereof. Reference in the respective deeds of conveyance, or in any mortgage or trust deed, or other evidence of obligation, to the easements and rights described in this Article, or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to respective grantees, mortgagees and trustees of such

Unit Ownership's as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

### C. Use of the Common Elements.

(1) **General.** Each Unit Owner shall have the right to use the Common Elements (except the Limited Common Elements and portions of the Property subject to leases made by or assigned to the Board) in common with all other Unit Owners as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend to not only each Unit Owner, but also to his agents, servants, tenants, family members, customers, invitees and licensees. However, each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements, if any, contiguous to and serving such Unit along or with adjoining Units. Such rights to use the Common Elements and the Limited Common Elements shall be subject to and governed by the provisions of the Act, Declarations, By-Laws and rules and regulations of the Association. In addition, the Association shall have the authority to lease, grant concessions or grant easements with respect to parts of the Common Elements, subject to the provisions of the Declaration and By-Laws. All income derived by the Association from leases, concessions or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, and resolutions or regulations as the Board may adopt or prescribe.

(2) **Guest Privileges.** The aforescribed rights shall extend to the Unit Owner and the members of the immediate family and authorized guests and other authorized Occupants and visitors of the Unit Owner, subject to reasonable rules and regulations with respect thereto. The use of the Common Elements and the rights of the Unit Owners with respect thereto shall be subject to and governed by the provisions of the Act, this Declaration and the By-Laws and rules and regulations of the Board as may be imposed from time to time.

(3) **Disclaimer of Bailee Liability.** Notwithstanding anything to the contrary contained in this Declaration, neither the Board, the Association, any Unit Owner, nor the Trustee or Developer shall be considered a bailee of any personal property stored in the Common elements, whether or not exclusive possession of any particular area shall be given to any Unit

Owner and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence.

### D. Maintenance, Repairs and Replacements.

(1) **By the Board.** The Board or Association, at its expense, shall be responsible for the maintenance, repair and replacement of those portions, if any, of each Unit which contribute to

the support of the Building excluding, however, interior wall, ceiling and floor surfaces. In addition, the Board or Association shall maintain, repair and replace all pipes, wires, conduits, ducts, flues, shafts and other facilities for the furnishing of utility services which may be located within the Unit boundaries and forming part of any system servicing more than one Unit, as specified in Article II Paragraph B hereof, exclusive of any portions of the foregoing which may be located at or beyond the wall outlets, or which may be the responsibility of an individual Unit Owner under subparagraph (2) below, or any other provision of this Declaration. Maintenance, repairs and replacements of the Common Elements (except as specifically provided herein) shall be furnished by the Board as part of the Common Expenses, subject to the By-Laws or rules and regulations of the Association.

**(2) By the Unit Owner.** Except as otherwise provided herein and in Paragraph (1)

above, each Unit Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Unit and of the doors and outside windows and frames and screens appurtenant thereto, and all internal installations of such Unit such as refrigerators, ranges, and other kitchen appliances, lighting fixtures and other electrical fixtures, plumbing fixtures or installations, and any pipes, ducts, flues, shafts, electrical wiring and conduits, and individual heating, cooling, and ventilating systems or equipment situated entirely within the Unit and servicing only such Unit; provided, however, that such maintenance, repairs and replacements as may be required for the bringing of water, gas and electricity to the Units, shall be furnished by the Board as part of the Common Expenses.

**(3) Nature of Obligations.**

Nothing herein contained shall be construed to impose a contractual liability upon the Association for maintenance, repair and replacement, but the Association's liability shall be limited to damages resulting from negligence. The respective obligations of the Association and Unit Owners set forth in this Declaration shall not be limited, discharged or postponed by reason of the fact that any such maintenance, repair or replacement is required to cure a latent or patent defect in material or workmanship in the construction of the Building, nor because they may become entitled to proceeds under policies of insurance. In addition, and notwithstanding anything hereinabove to the contrary, no Unit Owner shall have a claim against the Board or Association (or against the Trustee or Developer) for any work (such as repair of the Common Elements), ordinarily the responsibility of the Board or Association, but which the Unit Owner himself has performed or paid for, unless the same shall have been agreed to in advance by the Board or Association or the Trustee or Developer.

**E. Negligence of Unit Owner.**

If, due to the negligent act or omission of a Unit Owner, or of a member of his family or of a guest or other authorized Occupant or visitor of such Unit Owner, damage shall be caused to the Common Elements or to a Unit or Units of others, or maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Unit Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Board.

- F. Joint Facilities.** To the extent that equipment, facilities and fixtures within any Unit or Units shall be connected to similar equipment, facilities or fixtures affecting or serving other Units or the Common Elements, then the use thereof by the individual Unit Owners shall be subject to the rules and regulations of the Board as may be imposed from time to time. The authorized representatives of the Association or the Board, or of the manager or managing agent for the Building, shall be entitled to reasonable access to the individual Units as may be required in connection with maintenance, repair, or replacement of or to the Common Elements or any equipment, facilities or fixtures affecting or serving other Units or the Common Elements.

## **ARTICLE V**

### **ADMINISTRATION**

**A. Administration of Property.**

The direction and administration of the Property is vested in the Association through the Board of Directors (herein sometimes referred to as the "Board" or the "Board of Managers"), which shall consist of three (3) persons who shall be elected at large in the manner hereinafter set forth provided, however, that irrespective of anything else contained in this Declaration, for a period commencing on the date this Declaration is executed and ending upon the qualification of the directors elected at the initial meeting of voting members, the Trustee or Developer shall have the right to designate and select the persons who shall serve as members of the Board or to exercise the powers of the Board as provided in the Act. The Board shall be deemed to be the "Board of Managers" for the Unit Owners referred to in the Act. Except for directors so designated by the Trustee or Developer, each member of the Board shall be one of the unit

Owners; provided, however, that in the event a Unit Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any designated agent of such corporation, partnership, trust or other legal entity, shall be eligible to serve as a member of the Board. If a director fails to meet such qualifications during his term, he shall thereupon cease to be a director, and his place on the Board shall be deemed vacant.

## **B. Voting Rights.**

There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Unit Owners. Such person shall be known (and hereinafter referred to) as a "voting member". Such voting member may be the Unit Owner or one of the group composed of all the Unit Owners of a Unit Ownership, or be some person designated by such Unit Owner or Unit Owners or an authorized attorney to act as proxy on his or their behalf which proxy must be a Unit Owner. Such designation shall be dated and made in writing to the Board and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the designator. The proxy shall be invalid after 11 months from the date of execution unless otherwise provided in the proxy. Any or all Unit Owners may be present at any meeting of the voting members and (those constituting a group acting as a single voting member) may vote or take any other action as a voting member either in person or by proxy. If only one of the multiple owners of a unit is present at a meeting of the Association, he is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present the votes allocated to that unit may be cast only in accordance with the agreement of a majority interest of the multiple owners or by the presiding officer of the meeting if there is no agreement by a majority in interest. There is majority agreement if any one of the multiple owners cast the votes allocated to that unit without protest being made promptly to the presiding officer by any one of the other owners of the unit. The total number of votes of all voting members shall be one hundred (100), and each Unit Owner or group of Unit Owners shall be entitled to the number of votes equal to the total of the percentage of ownership in the Common elements applicable to his or their Unit Ownership as set forth in Exhibit B, except as otherwise provided in this Section B. The person designated by the Trustee or Developer shall be the voting member with respect to any Unit Ownership owned by the Trustee or Developer. At any time, in the event that thirty percent (30%) or less of the total number of Units control in excess of fifty percent (50%) of the total votes of the Association, and provision herein which requires a vote by Unit Owners holding a certain percentage of the total vote shall require, in lieu thereof, that the percentage required be based on the number of Units rather than the percentage of the votes allocable to Units pursuant to their respective percentage of ownership in the Common Elements. The Association shall have only one class of membership.

## **C. Meetings.**

(1) **Quorum.** Meetings of the voting members shall be held at the Property or at such other place in Cook County, Illinois, as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of the voting members having one hundred percent (100%) of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the voting members at which a quorum is present at the commencement of the meeting upon the affirmative vote of the voting members having a majority of the total votes present at such meeting. The Board may prescribe reasonable rules for the conduct of all meetings of the Board and Unit Owners, or in the absence of such rules, Roberts Rules of Order shall be used.

(2) **Initial and Annual Meeting.** The initial meeting of the voting members shall be held upon not less than twenty-one (21) days written notice given by the Developer. Said initial meeting shall be held not later than ninety (60) days after the conveyance by the Developer or Trustee of seventy-five (75%) of the units or three (3) years after the recording of the Declaration, whichever is earlier. Thereafter, there shall be an annual meeting of the voting members on the second Tuesday of February following such initial meeting, and on the second Tuesday of January of each succeeding year thereafter at 7:30 P.M., or at such other reasonable time or date as may be designated by written notice of the Board delivered to the voting members.

(3) **Special Meetings.** Special meetings of the voting members may be called at any time after the initial meeting provided for in the immediately preceding section for the purpose of considering matters which, by the terms of this Declaration, require the approval of all or some of the voting members, or for any other reasonable purpose provided, however, that the following matters shall require the approval of voting members having not less than two thirds (2/3) of the total votes: (i) the merger or consolidation of the Association; (ii) the sale, lease, exchange, mortgage, pledge or other disposition 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. Special meetings may be called by written notice authorized by a majority of the Board, the President of the Board, or by one hundred percent (100%) of the voting members and delivered not less than ten (10) days and no more than thirty (30) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered. Matters to be submitted at special meetings of the voting members shall first be submitted to the Board, at least ten (10) days prior to the special meeting, who shall then submit the matters to the voting members.

**Notices of Meetings.** Except as otherwise provided herein, notices of meetings required to be given herein may be delivered either personally, via e-mail notice, by telephone

notice or by mail to the persons entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice, or to the Unit of the Unit Owner with respect to which such voting right appertains, if no address has been given to the Board, provided that any such notice shall be delivered no less than ten (10) days and no more than thirty (30) days prior to the date fixed for such meeting and shall state the date, time, place and purpose of such meeting.

**D. Board of Directors.**

(1) At the initial meeting of voting members held as provided herein, the voting members shall elect the Board consisting of three (3) members. In all elections for members of the Board, each voting member shall be entitled to vote on a non-cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Members of the Board elected at the initial meeting shall serve until the first annual meeting. At the first annual meeting three (3) Board members shall be elected for a two year period. Upon the expiration of the terms of office of the Board members so elected at the first annual meeting and thereafter, successors shall be elected for a term of two (2) years each. Members of the Board shall receive no compensation for their services. Except as otherwise provided in this Declaration, the Property shall be managed by the Board and the Board shall act by majority vote of those present at its meetings when a quorum exists. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt provided, however, that each Unit Owner shall be entitled to notice, in the same manner as provided in Section D, Article V hereof, of any meeting of the Board called for the purpose of considering the adoption of the proposed annual budget or any increase or establishment of an assessment; if an adopted budget requires assessment against the unit owners in any fiscal or calendar year exceeding 115% of the assessments for the preceding year, the Board upon written petition by unit owners with one hundred percent (100%) of the votes of the Association filed within 14 days of the Board action, shall call a meeting of the unit owners within 30 days of the date of filing of the petition to consider the budget. Unless a majority of the votes of the unit owners are cast at the meeting to reject the budget, it is ratified, whether or not a quorum is present. In determining whether assessments exceed 115% of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, and anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis shall be excluded from the computation; and the Board shall meet no less than four (4) times each year. A majority of the total number of members of the Board shall constitute a quorum

(2) The Board shall elect from among its members for a term of two (2) years a President who shall preside over both its meetings and those of the voting members, and who shall be the chief executive officer of the Board and the Association and who shall be designated to mail and receive all notices and execute all amendments hereto as provided herein and in the Act; a Secretary who shall keep the minutes of all meetings of the Board and of the voting members and

who shall, in general, perform all the duties incident to the office of the Secretary; and a Treasurer to keep the financial records and books of account.

(3) Written notice stating the place, date and hour of any meeting of the Board shall be delivered to each member of the Board not less than five (5) days prior to the date of such meeting. The purpose for which the meeting is called shall be stated in the notice.

(4) Within sixty (60) days following the election of the Board other than those members the Developer shall deliver to the Board the following:

(i) All original documents pertaining to the Property and its administration including this Declaration, the Articles of Incorporation for the Association, if any, a minute book containing the minutes of any meetings held by the Association and any rules and regulations governing the Property;

(ii) A detailed accounting by the Developer setting forth the source and nature of receipts and expenditures in connection with the management, maintenance and operation of the Property;

(iii) Any Association funds on hand which shall at all times be segregated from any other funds of the Developer; and

(iv) A schedule of all personal property, equipment and fixtures owned by the Association, including documents such as invoices or bills of sale, if available, evidencing transfer of title to such property.

**E. General Powers of the Board.** The Board shall have the following general powers:

(1) Subject to the rights reserved by the Trustee or Developer herein, the Board may engage the services of an agent to manage the portions of the Property for which the Board is responsible pursuant to this Declaration, to the extent deemed advisable by the Board.



(2) The Board shall have the power and duty to provide for the designation, hiring and removal of employees and other personnel, including lawyers and accountants, 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 and to delegate any such powers to the manager or managing agent (and any such employees or other personnel as may be employees of the managing agent). The board shall have the power and duty to provide for the operation, care upkeep, maintenance, replacement and improvement of the common elements. Nothing in this subsection (2) shall be deemed to invalidate any provision in a condominium instrument placing limits on expenditures for the common elements, provided that, that such limits shall not be applicable to expenditures for repair, replacement or restoration means expenditures to deteriorated or damaged portions of the property related to the existing decorating, facilities, or structural or mechanical components, interior or exterior portions of such areas. Replacement of the common elements may result in the original portions of such areas. Replacement of the common elements may result in an improvement over the original quality of such elements or facilities; provided that, if the improvement results in a proposed expenditure exceeding five percent (5%) of the annual budget, the board of managers, shall call a meeting of the unit owners within thirty (30) days of the date of delivery of the petition to consider such expenditure.

(3) The Board or its agents, upon reasonable notice, may enter any Unit when necessary in connection with any maintenance or construction for which the Board is responsible or to make emergency repairs as may be necessary to prevent damage to the Common Elements or to any other Unit or Units.

(4) The Board's powers hereinafter enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the maintenance fund any structural alterations, capital additions to, or capital improvements of the Common Elements (other than for purposes of replacing or restoring portions of the Common Elements, subject to all the provisions of this Declaration or unless required for emergency repair, protection or operation of the Common Elements), requiring an expenditure in excess of Three Thousand Dollars (\$3,000.00) without in each case the prior written approval of Unit Owners owning two-thirds (3/4) of the total ownership interest in the Common Elements.

(5) All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the

Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the Treasurer and countersigned by the resident of the Board or by the Secretary of the Board in the absence of the President. The managing agent of the Property may be

authorized to execute those documents required to enable it to perform its duties under its management agreement.

(6) The Board by vote of at least two-thirds (2/3) of the Board, and without approval from any of the voting members except as hereinafter set forth, may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Unit Owners and occupants of the Property. Written notice of such rules and regulations shall be given to all voting members.

(7) Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all the Unit Owners or any of them.

(8) The Board shall have the power to bid for and purchase any Unit Ownership at a sale pursuant to a mortgage foreclosure, or a foreclosure of the lien for Common Elements under the Act, or at a sale pursuant to an order of direction of a court, or other involuntary sale, upon the consent or approval of Unit Owners owning not less than one hundred percent (100%) in the aggregate of the undivided ownership of the Common Elements.

(9) The Board shall have the power to exercise all other powers and duties of the Board of Directors of Unit Owners as a group referred to in the Declaration.

(10) Except as may be otherwise provided in this Declaration, the Board for the benefit of all the Unit Owners shall acquire and shall pay out of the maintenance fund hereinafter provided for, the following:

(a) Operating expenses of the Common Elements, including water, electricity, gas and telephone and other necessary utility service for the Common Elements and (if not separately metered or charged) for the Units.

(b) Services of any person or firm to act on behalf of the Unit Owners in connection with real estate taxes and special assessments on the Unit Ownerships, and in connection with any other matter where the respective interests of the Owners are deemed by the Board to be similar and non adverse to each other. The cost of such services shall be Common Expenses.

(c) Painting, cleaning, outside window washing, tuckpointing, maintenance, decorating, repair and replacement of the Common Elements (but not including the interior surfaces of the Units and of the hallway doors appurtenant thereto, and repair of outside windows and frames and screens which the Unit Owners shall paint, clean, decorate, maintain and repair) and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper.

(d) Any other materials, supplies, utilities, furniture, equipment, labor, services, maintenance, repairs or structural alterations which the Board is required to secure or pay for, pursuant to the terms of this Declaration and By-Laws or which in its option shall be necessary or proper for the maintenance and operation of the Property.

(e) Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Board constitute a lien against the Property or against the Common Elements, rather than merely against the interests therein of particular Unit Owners. Where one or more Unit Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specifically assessed to said Unit Owners.

(f) Maintenance and repair of any Unit if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Elements, or any other portion of the Building, and if a Unit Owner or any Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board to said Unit Owner, provided that the Board shall levy a special assessment against such Unit Owner for the cost of said maintenance or repair.

#### **F. Insurance.**

(1) The Board shall have the authority to and shall obtain insurance for the Property as follows:

(a) Insurance on the Property, including the units and Common Elements, against

loss or damage by fire and against loss or damage by risks now or hereafter embraced by standard extended coverage and vandalism and malicious mischief endorsements, in an amount sufficient to prevent the insured from being a co-insurer within the terms of the applicable policies, but in any event in an amount not less than one hundred percent (100%) of the full insurable replacement cost thereof. The "full insurable replacement cost" of the Property, including the Units and the Common Elements, shall be determined from time to time by the Board, which determination may be based upon appropriate insurance appraisals. Insurable replacement cost shall be deemed to be the cost of restoring the Common Elements, Units, or any part thereof, to substantially the same condition in which they existed prior to damage or destruction. The cost of any and all such appraisals shall be Common Expenses.

(b) Insurance on the property (exclusive of the Parcel and excavations, foundations and footings) against all loss or damage from explosion of boilers, heating apparatus, pressure vessels and pressure pipes installed in, on or about said Property, without insurance clause so long as available, in such amount as the Board shall deem desirable.

(c) 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 Property or upon, in or about the streets and passageways and other areas adjoining the Property, such public liability and property damage insurance to afford protection to such limits as the Board shall deem desirable.

(d) Such worker's compensation insurance as may be necessary to comply with applicable laws.

(e) Employer's liability insurance in such amount as the Board shall deem desirable.

(f) A 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 amount as the Board shall deem desirable.

(g) Such other insurance (including insurance with respect to officers' and directors' liability) in such reasonable amounts as the Board shall deem desirable.

The premiums for the above-described insurance, except as otherwise provided in this Section E of Article V, shall be Common Expenses.

(2) All insurance provided for in this Section E of Article V shall be affected under valid and enforceable policies issued by insurers of recognized responsibility authorized to do business in the State of Illinois.

(3) All policies of insurance of the character described in clauses (a) and (b) of Paragraph 1 of this Section E, (i) shall name as insured, the Developer, so long as it has an insurable interest, and the Board as trustee for the Unit Owners in the percentages established in Exhibit 2 to this Declaration and shall also name as an insured the Insurance Trustee described in subparagraph E (6) (b) , as the respective interests of all of such insured may appear, (ii) shall be without contribution as respects other such policies of insurance carried individually by the Unit Owners whether such other insurance covers their respective Units and/or the additions and improvements made by such Unit Owners to their respective Unit, (iii) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefore, such option shall not be exercisable in the event the Unit Owners elect to sell the Property or remove the Property from the provisions of the Act, and (iv) shall contain an endorsement to the effect that such policy shall not be terminated for nonpayment of premiums without at least ten (10) days prior written notice to the mortgagee of each Unit. Policies of insurance of the character described in clause (a) of Paragraph 1 of this Section E may contain an endorsement extending coverage so as to include the payment of Common Expenses with respect to damaged Units during the period of reconstruction thereof. Notwithstanding the issuance of standard mortgage clause endorsements under the policies of insurance of the character described in clauses (a) and (b) of Paragraph I of this Section E, any losses under such policies shall be payable, and all insurance proceeds recovered thereunder shall be applied and disbursed, in accordance with the provisions of this Declaration.

(4) All policies of insurance of the character described in clauses (c), (e), (f) and (g) of Paragraph 1 of this Section E shall name as insured each Unit Owner and their spouses (but as to the insurance described in Section E (1)(c) hereof, only with respect to those portions of the Property not reserved for their exclusive use) and the Association, Board and its managing agent, and the other agents and employees of such Association, Board and managing agent and the Developer in his or its capacity as a Unit Owner and Board member. In addition, all policies of insurance of the character described in clause (c) of Paragraph 1 of this Section E shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers,

members of the Board, Developer, the managing agent, their respective employees and agents and the Unit Owners and Occupants and shall cover claims of one or more insured parties against other insured parties.

(5) The Association, for the benefit of the Unit Owners and the mortgagee of each Unit, shall pay the premiums on the policies of insurance described in Paragraph 1 of this Section E at least thirty (30) days prior to the expiration dates of the respective policies and shall notify the mortgagee of each Unit of such payment within ten (10) days after the date on which payment is made.

(6) The loss, if any, under any policies of insurance of the character described in clauses (a) and (b) of Paragraph I of this Section E shall be payable, and the insurance proceeds paid, on account of any such loss shall be applied and disbursed as follows:

(a) To the Board, as trustee for each of the Unit Owners in their respective percentages of ownership in the Common Elements as established in the Declaration, in the case of any one loss, of Fifty Thousand Dollars (\$50,000.00) less in the aggregate, which insurance proceeds, less the actual cost, fees and expenses, if any, incurred in connection with the adjustment of the loss, shall be applied to the payment of the cost of restoring the property to substantially the same condition in which it existed immediately prior to such damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before free from vendor's, mechanic's, material man's and other similar liens; or

(b) In case of any one loss exceeding Fifty Thousand Dollars (\$50,000.00) in the aggregate, then the insurance proceeds shall be paid to LS & KW LLC, which is hereby designated by the Developer to act as trustee for the Board (the "Insurance Trustee") pursuant to the Act for the purpose of collecting and disbursing the insurance proceeds described in this subparagraph (b). If LS & KW, LLC (or its successor appointed pursuant hereto) shall fail or cease for any reason to act as the Insurance Trustee, then the Board shall, pursuant to the Act, appoint as successor Insurance Trustee a corporation qualified to accept and execute trusts in the State of Illinois and having a capital of not less than Five Million Dollars (\$5,000,000.00). Such proceeds, less the actual cost, fees and expenses, if any, incurred in connection with the adjustment of the loss, and the fees of the Insurance Trustee, shall be applied by the Insurance Trustee to the payment of the cost of restoring such damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before. Such proceeds shall be paid by the Insurance Trustee to or for the account of the Association, from time to time as work progresses, in such manner as shall be required to facilitate the restoration of the Property in accordance

with the provisions of the Act. The Association and the Insurance Trustee may, prior or subsequent to any such loss, enter into an insurance trust agreement further implementing the provisions of the Act and this Declaration with respect to the collection and disbursement of proceeds of insurance by the Insurance Trustee.

(7) Each Unit Owner shall be responsible for his own insurance on the contents of his own Unit, and furnishings and personal property therein, and his personal property stored elsewhere on the Property, and his personal liability to the extent not covered by the policies of liability insurance obtained by the Board for the benefit of all of the Unit Owners as above provided. All policies of casualty insurance carried by each Unit Owner shall be without contribution as respects the policies of casualty insurance obtained by the Board for the benefit of all the Unit Owners as above provided.

(8) Each Unit Owner shall be required to report all additions or alterations to his Unit promptly in writing to the agent, and to reimburse the Board for any additional insurance premiums attributable thereto, and he shall be responsible for any deficiency in any insurance loss recovery from his failure to so notify the Board. The Board shall not be responsible for obtaining insurance on such additions, alterations or improvements unless and until such Unit Owner shall make such report and request the Board in writing to obtain such insurance, and shall make arrangements satisfactory to the Board for such additional premiums; and upon the failure of such Unit Owner so to do, the Board shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements. "Additions" or "alterations" shall mean property attached to the Unit and not

readily removable without damage to the Unit, including but not limited to, carpeting, special flooring, special wall covering and paneling. The insurance coverage described in this subparagraph shall not be deemed to include personal property owned by the Unit Owner and not attached to the Unit.

(9) Each Unit Owner hereby waives and releases any and all claims which he may have against any other Unit Owner, the Association, its officers, members of the Board, Trustee, Developer, the manager and managing agent of the Property, if any, and their respective employees and agents, for any damage to the Common Elements, the Units, or to any personal property located in the Unit 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.

#### **G. CANCELLATION OF INSURANCE.**

The Board shall be responsible, in the event any insurance required herein is cancelled, for serving notice of such cancellation upon any person insured thereunder.

#### **H. LIABILITY OF THE BOARD OF DIRECTORS.**

Neither the members of the Board nor the officers of the Association shall be liable to the Unit Owners for any mistake of Judgment or for any other acts or omissions of any nature whatsoever as such Board members and officers except for any acts or omissions of any nature whatsoever as such found by a court to constitute gross negligence or fraud. The Unit Owners shall indemnify and hold harmless each of the members of the Board and each of the officers of the Association against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board and officers of the Association on behalf of the Unit Owners or arising out of their status as Board members or officers unless any such contract or act shall have been made fraudulently or with gross negligence or contrary to the provisions of this Declaration. 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 or received in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, in which any member of the Board or officers of the Association may be involved by virtue of such persons being or having been such member or officer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such member or officer, or (b) 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 persons being adjudged liable for gross negligence or fraud in the performance of his duties as such member or officer. It is also intended that the liability of any Unit Owner arising out of any contract made by or other acts of the Board or officers of the Association, or out of the aforesaid indemnity in favor of the members of the Board and officers of the Association, shall be limited to such proportion of the total liability hereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements. Every agreement made by the Board or by the managing agent on behalf of the Unit Owners shall provide that members of the Board or the managing agent, as the case may be, are acting only as agents for the Unit Owners, and shall have no personal liability thereunder (except as Unit Owners) and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements.

### **ARTICLE VI**

#### **COMMON EXPENSES - MAINTENANCE FUND**



**A. PREPARATION OF ESTIMATED BUDGET.**

Each year on or before February 1st the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during that calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacement, and shall on or before February 15th notify each Unit Owner in writing as to the amount of such estimate, with reasonable itemization thereof and containing each Unit Owner's respective assessment provided, however, that such annual budget shall be furnished to each Unit Owner at least thirty (30) days prior to its adoption by the Board. The annual budget shall also take into account the net available cash income for the year derived from the operation or use of the Common Elements. Subject to the provisions of Section G of Article V hereof, said "estimated cash requirement shall be assessed to the Unit Owners according to each Unit Owner's of ownership in the Common Elements as set forth in Exhibit B attached hereto. On or before January 1st of the ensuing year, and the first of each and every month of said year, each Unit Owner, jointly and severally, shall be personally liable or obligated to pay to the Board or as it may direct, one-twelfth (1/12) of the assessments made pursuant to this paragraph. On or before April 1st of each calendar year following the initial meeting, the Board shall supply to all Unit Owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Such accounting may but need not, as the Board deems fit, be prepared by a certified public accountant. Any net shortage or excess shall be applied as an adjustment to the installments due under the current year's estimate in provisions of the immediately following section. The Association shall have no authority to forbear payment of assessments by any unit owner.

**B. RESERVE FOR CONTINGENCIES AND REPLACEMENTS SUPPLEMENTAL BUDGET.**

The Board shall build up and maintain a reasonable reserve for contingencies and replacements, which reserve shall be segregated and for specific purposes. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against such portions of the contingency and replacement reserve which remains unallocated. If the "estimated cash requirement" proves inadequate for any reason or in the event a nonrecurring Common Expense is anticipated for any year, then the Board may prepare and approve a supplemental budget covering the estimated deficiency or nonrecurring expense for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a

separate assessment shall be made to each Unit Owner for his proportionate share of such supplemental budget. All Unit Owners shall be personally liable for and obligated to pay their respective adjusted monthly amount. Any such separate assessment, if it involves proposed expenditures resulting in a total payment assessed to a Unit equal to the greater of five (5) times the Unit's most recent monthly assessment or (ii) Three Hundred Dollars (\$300.00) shall be subject to the affirmative vote of one hundred percent (100%) of the total ownership of the Common Elements at a meeting specifically called for approving such separate assessment.

#### **C. ANNUAL BUDGET.**

The initial Board appointed by the Developer shall determine and adopt, prior to the conveyance of the first Unit hereunder, the "estimated cash requirement" for the initial period commencing with the first day of the month in which the sale of the first Unit is closed and ending on December 31st of the calendar year in which such sale occurs and shall continue to determine the "estimated cash requirement" for each succeeding calendar year until such time as the first Board elected hereunder takes office. Assessments shall be levied against the Owners during said periods as provided in Section A of this Article VI.

#### **D. FAILURE TO PREPARE ANNUAL BUDGET.**

The failure or delay of the Board to prepare or serve the annual or adjusted estimate on the Unit Owner shall not constitute a waiver or release in any manner of such Unit Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Unit Owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the monthly maintenance payment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

#### **E. BOOKS AND RECORDS.**

The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Common Elements specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection at the office of the Association, if any, by any Unit Owner or any holder of a first mortgage lien on a Unit Ownership, at such reasonable time or times during normal business hours as may be requested by the Unit Owner. Upon ten (10) days notice to the

Board and payment of a reasonable fee, any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

**F. STATUS OF COLLECTED FUNDS.**

All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments or user charges) shall be deemed to be held for the benefit, use and account of all the Unit Owners in the percentages set forth in Exhibit 2.

**G. INITIAL DEPOSIT OR CONTINGENCIES & REPLACEMENTS.**

At the time the initial sale of each Unit is closed, the Purchaser of the Unit shall pay to the Association an amount equal to two (2) times the first full monthly assessment for such Unit. This sum shall be used to initially fund the reserve for contingencies and replacements described in Section B hereof. This payment shall not be refundable or be applied as a credit against the Unit Owner's monthly assessments.

**i. NON-USE AND ABANDONMENT.**

No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his or their Units.

**I. ALTERNATE DISPUTE RESOLUTION-MEDIATION-ARBITRATION.**

- (1) The declaration or bylaws of a condominium association may require mediation or arbitration for disputes, in which the matter in controversy has either no specific monetary value or a value of \$10,000 or less (other than the levying and collection of assessments), or arising out of violations of the declaration, bylaws, or rules and regulations of the condominium association, Any dispute, not required to be mediated arbitrated by an association pursuant to its powers under this Section, that is submitted to mediation or arbitration by the agreement of the disputants, is also subject to this Section.

- (2) The Illinois Uniform Arbitration Act shall govern all arbitrations proceeding

under this Section.

(3) The association may require the disputants to bear the costs of either mediation or arbitration.

## **ARTICLE VII**

### **COVENANTS AND RESTRICTIONS**

#### **AS TO USE AND OCCUPANCY**

**USE AND OCCUPANCY.** The Property shall be occupied and used as follows:

(1) Each Unit or any two adjoining Units used together shall be used for housing and related common purposes for which the Property was designed and for no other purpose. That part of the Common Elements separating any two adjoining Units which are owned by the same Unit Owner may be altered or removed to afford ingress and egress to and from such adjoining Units provided, however, that (i) such alteration or removal shall not impair or weaken the structural integrity of any Unit or any portion of the Common Elements; (ii) the Unit Owner furnish to the Board not less than ten (10) days prior to the date the Unit Owner desires to commence such work, plans detailing the work to be done; (iii) the Board consents to the performance of such work; (iv) the expense of such alterations shall be paid in full by the Unit Owner making such alterations, and (v) such Unit Owner shall pay in full the expense of restoring such Common Elements to their former condition prior to such alterations in the event such Units cease to be used together.

(2) There shall be no obstruction of the Common Elements nor shall in the Common Elements (except in areas designed for such purpose) prior consent of the Board or except as hereinafter expressly provided. Each shall be obligated to maintain and keep in good order and repair his own unit.

(3) Nothing shall be done or kept in any Unit or in the Common Elements serving the Units which will increase the rate of insurance on the Building or contents thereof without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Building, or contents thereof, or which would be in violation of any law. No waste shall be committed in the Common Elements.

(4) Without the prior consent of the Board, Unit Owners shall not cause or permit anything to be placed on the outside walls of the Building and no sign, awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior walls or roof of any part thereof; and Unit Owners shall not cause or permit the enclosure (either partially or entirely) of any exterior portions of the Building.

(5) In order to enhance the sound conditioning of the Building, the floor covering for all occupied Units shall meet the minimum standard as may be specified by rules and regulations of the Board.

(6) No noxious or offensive activity shall be carried on in any Unit or in the 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.

(7) Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Building or which would structurally change the Building except as is otherwise provided herein. No Unit Owner shall overload the electric wiring in the Building, or operate machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others. No Unit Owner shall overload the floors of any Unit. The use of waterbeds and similar furnishings and equipment which may cause floor overloads shall be subject to Board approval.

(8) No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials which are not used in receptacles provided for such purpose.

(9) Except as specifically provided for in this Paragraph, no animals shall be raised, bred or kept in any Unit of the Common Elements, except for animals kept in a Unit by a Unit Owner as a house pet. Animals of a breed or variety commonly kept as household pets shall be allowed to be kept in a Unit by a Unit Owner so long as they are not kept or bred for any commercial purpose, are not allowed to run loose on the Property, are kept in a strict accordance with such other rules and regulations relating to household pets (which may further restrict the type as well as the number of pets permitted) 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. Each Unit Owner and each Occupant shall be responsible for picking up after any animal bred or kept in such Unit Owner's or Occupant's respective Unit, including, without limitation, removing any waste deposited by such animal anywhere on the Common Elements.

(10) There shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Elements except that, subject to reasonable rules and regulations of the Board, (i) baby carriages, bicycles and other personal property may be stored in any common storage areas designated for the purpose and (ii) any amenity and service areas may be used for their intended purposes.

(11) No industry, business, trade, occupation or profession of any kind, commercial, religious, educational, or otherwise, designed for profit, altruism, exploration, or otherwise shall be conducted, maintained, or permitted in any Unit without the express permission of the Developer or Condominium Association.

(12) No "For Sale" or "For Rent" signs, advertising or other displays shall be maintained or permitted on any part of the Property. The right is reserved by the Trustee and Developer or its agents to place and maintain on the Property model apartments, sales offices, advertising signs and lighting in connection therewith at such locations and in such forms as shall be determined by the Trustee or Developer or its agents. The Trustee or Developer or its agents and prospective purchasers and lessees of any Unit from the Trustee and Developer are hereby granted the right of ingress, egress and transient parking in and through the Common Elements for such Unit sale or leasing purposes. The Trustee and Developer reserve the right to make structural changes in Units for model apartment purposes, and in the adjoining Common Elements, for the purpose of exercising the right of the Trustee or Developer to combine Units reserved by the Trustee or Developer pursuant to Section A(3) of Article II. The Trustee or Developer further reserves the right to use unsold Units and Common Elements for temporary storage, office sales and related purposes. The foregoing rights of the Trustee or Developer, or agents shall terminate upon the closing of the sale of the last Unit.

(13) The Unit restrictions contained herein shall not, however, be construed in such a manner as to prohibit a Unit Owner from: (i) maintaining his personal professional library therein; (ii) keeping his personal business or professional records or accounts therein; or (iii) handling his personal business or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the

principal resident use and not in violation of (1)-(12) of this Article VII.

## **ARTICLE VIII**

### **SALE, LEASE OR OTHER ALIENATION**

A. Neither the Board nor the Association shall have any right or option to purchase or lease any Unit under the terms of this Declaration.

B. Notwithstanding the provisions of paragraph A of this Article VIII, the Board has the power to issue and enforce reasonable rules and regulations requiring Notice to the Board of the Sale or leasing of any Unit by the Unit Owner prior to the time any such sale or lease is consummated as the Board may require to be reasonably necessary for proper management and security.

## **ARTICLE IX**

### **INSURANCE, REPAIR AND RECONSTRUCTION.**

A. The Association shall acquire and pay for out of the Maintenance Fund herein provided for the following:

(1) Such insurance as the Association is required to obtain under the provisions of the Act and such other insurance, as the Association deems advisable in the operation, and for the protection, of the Common Elements and the Units. Any losses under such policies of insurance shall be payable, and all insurance proceeds recovered thereunder shall be applied and disbursed in accordance with the provisions of the Declaration and the Act.

The Association may engage the services of any bank or trust company authorized to do business in Illinois to act as trustee or agent on behalf of the Association for the purpose of receiving and disbursing the insurance proceeds resulting from any loss, upon such terms as the Association shall determine consistent with the provisions of this Declaration. In the event of any loss resulting from the destruction of the major portion of one or more Units, occurring after the first annual meeting to the Unit Owners is held pursuant of the provisions of Bylaws, the Association shall engage a corporate trustee as

aforesaid upon the written demand of the mortgagee or owner of any Unit so destroyed. The fees of such corporate trustee shall be Common Expenses.

Each Unit Owner, other than the Trustee or the Developer, shall notify the Association in writing of any additions, alterations or improvements to his Unit and he shall be responsible for any deficiency in any insurance loss recovery resulting from his failure so to notify the Association. The Association shall use its reasonable efforts to obtain insurance on any such additions, alterations or improvements, if such Unit Owner request it to do so and if such Unit Owner shall make arrangements satisfactory to the Association to reimburse it for any additional premiums attributable thereto; and in the absence of insurance on such additions, alterations or improvements. All such policies of insurance shall contain standard mortgage clause endorsements in favor of the first mortgagee of each Unit and shall provide that such policies shall not be terminated, cancelled, or substantially modified without at least thirty (30) days' prior written notice to the mortgagee of each Unit.

(2) Comprehensive public liability and property damage insurance in such limits as the Association shall deem desirable, provided that such limits shall not be less than \$1,000,000 per occurrence for personal injury and or property damage insuring the Association, the members of the board, the managing agent, if any, and their respective agents and employees, and the Unit Owners from any liability in connection with the property.

(3) Such other forms of insurance as the Association shall elect to effect including such Workmen's Compensation insurance as may be necessary to comply with applicable laws.

(4) In the event the Federal Home Loan Mortgage Corporation ("FHLMC") is a mortgagee or an assignee of a mortgagee with respect to any Unit, a fidelity bond or bonds to protect against dishonest acts on the part of the officers, directors, trustees and employees of the Association and all others who handle, or are responsible for handling, funds of the Association. Such bond or bonds shall name the Association as an obligee and shall be in an amount at least equal to 150 percent of the estimated annual Common Expenses including reserves, unless a different amount is required by the "FHLMC". Such bond or bonds shall contain a waiver of defense based upon the exclusion of persons who serve without compensation from the definition of "employee"

(b) Except as otherwise provided in this Declaration, premiums for all insurance obtained or maintained by the Association, and the cost of any appraisal which the association deems



advisable in connection with any insurance, shall be Common Expenses.

(c) The association shall secure insurance policies that will provide for the following:

(1) with respect to the insurance provided for in (a)(2) of this paragraph, coverage of cross liability claims of one insured against another; and for

(2) a waiver of any rights to subrogation by the insuring company against any named insured.

(d) The Association may, but shall not be required to, secure policies providing

(1) with respect to the insurance provided for in (a)(1) of this paragraph, that the policy cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Unit Owners;

(2) with respect to the insurance provided for in (a)(1) of this paragraph that the insurer shall not have the option to restore the Property, if the Property is sold or removed from the provisions of the act.

(e) Each Unit Owner shall be responsible for insurance coverage on the furnishing and other items of personal property belonging to a Unit Owner and insurance for his personal liability to the extent not covered by insurance maintained by the Association.

(f) Upon the cancellation of any policy of insurance which the Association is required to obtain hereunder, the Association shall notify each party insured thereunder of such cancellation.

(g) If, in the event of fire or other disaster, the insurance proceeds are insufficient to restore the Building as set forth in the preceding sub-paragraph, then:

- (1) The Board shall call a meeting of Unit Owners to be held not later than the first to occur of (1) the expiration of thirty (30) days after the final adjustments of the insurance claims of (2) the expiration of ninety (90) days after the fire or other disaster which caused the damage.
- (2) At such meeting, the Board shall present an estimate of the cost of repair or reconstruction, together with an estimate of the part thereof which must be raised by way of special assessment.
- (3) The Building shall be restored and the proposed special assessment shall be levied only upon the vote of one hundred percent (100%) of the Unit Owners.
- (4) If the Unit Owners do not vote to restore the Building at the meeting provided for in (1) above, then the Board may, at its discretion, call another meeting or meetings of Unit Owners to reconsider the question. If the Unit Owners do not vote to restore the Building within 180 days after the fire or other disaster, then the Board may (but shall not be required to) Record a notice as permitted under the Act.
- (5) if the Unit Owners do not vote to restore the Building under the provisions of the immediately preceding sub-paragraph and the Board does not Record a notice as permitted under the Act, then the Unit Owners may, with the consent of all First Mortgagees, withdraw any portion of the Building so affected by such fire or other disaster from the Act. Upon the withdrawal of any Unit or portion thereof, the percentage of interest in the Common Elements appurtenant to such Unit shall be reallocated among the remaining Units on the basis of relative percentage of interest appurtenant to that Unit shall be reduced accordingly, upon the basis of diminution of the market value of the Unit, as determined by the Board. The allocation of any insurance or other proceeds to any withdrawing or remaining Unit Owners shall be on an equitable basis, which need not be a Unit's percentage of interest in the Common Elements. Any insurance or other proceeds available in connection with the withdrawal of any portion of the Common Elements, not necessarily including the Limited Common Elements, shall be allocated on the basis of each unit Owner's percentage of interest in the Common Elements. Any such proceeds available from the withdrawal of Limited Common Elements shall be distributed in accordance with the interest of those entitled to their use. Upon the withdrawal of any Unit or portion thereof, with the responsibility for the payment of assessments on such Unit or portion thereof so withdrawn shall cease or shall be equitably reduced.

## **ARTICLE X**

### **SALE OF PROPERTY**

At a meeting duly called for such purpose, the Unit Owners, by affirmative vote of one hundred percent (100%), may elect to sell the Property as a whole. Within ten (10) days after the date of the meeting at which such sale was approved, the Board shall give written notice of such action to the holder of any duly recorded mortgage or trust deed against any Unit entitled to notice under Section B of Article XII of this Declaration. Such action shall be binding upon all Unit Owners, and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts in a manner and form as may be necessary to effect such sale; provided, however, that any Unit Owner who did not vote in favor of such action and who has filed written objection thereto with the Board within twenty (20) days after the date of the meeting at which such sale was approved shall be entitled to receive from the proceeds of such sale an amount equivalent to the value of his interest, as determined by an appraisal, less the amount of any unpaid assessments or charges due and owing from such Owner. In the absence of agreement on an appraiser, such Unit Owner and the Board may each select a qualified appraiser, experienced in the appraisal of condominium units in Chicago, Illinois and the two (2) so selected, shall select a third appraiser, experienced in the appraisal of condominium units in Chicago, Illinois, and the fair market value, as determined by a majority of the three (3) so selected, shall control. If either party shall fail to select an appraiser, then the one designated by the other party shall make the appraisal. The cost of the appraisal shall be divided equally between such Unit Owner and the Board, and the Board's share of said cost shall be a Common Expense.

## **ARTICLE XI**

### **REMEDIES**

- A. **ABATEMENT AND ENJOINMENT.** The violation of any restriction or condition or regulation adopted by the Board, or the breach of any covenant or provision herein contained, shall give the Board the right, upon not less than ten (10) days notice, in addition to the rights set forth in the next succeeding section:

- (I) to enter upon that part of the Property where such violation or breach exists and

summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Trustee, or Developer, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or

- (2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at a rate equal to the highest rate permitted by the Statutes of the State of Illinois until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of his respective share of the Common Expenses, and the Board shall have a lien for all of the same upon the Unit Ownership of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the Property. Any and all such rights and remedies may be exercised at any time and from time to time cumulatively or otherwise, by the Board.

**B. INVOLUNTARY SALE.** If any Unit Owner (either by his own conduct or any other occupant of his Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the regulations adopted by the Board, and such violation shall continue for thirty (30) days after notice in writing from the Board, or shall recur more than once after such notice, then the Board shall have the power to issue to the defaulting Unit Owner a ten (10) day notice in writing to terminate the right of said defaulting Unit Owner to continue to occupy, use or control his Unit and thereupon an action in equity may be filed by the members of the Board against the defaulting Unit Owner for a decree of mandatory injunction against the Unit Owner or Occupant or, in the alternative, a decree declaring the termination of the defaulting Unit Owner's right to occupy, use or control the Unit owned by him on account of the breach of covenant and ordering that the right, title and interest of the Unit Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Unit Owner from reacquiring his interest in the Property at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to the Unit Owner. Upon the confirmation of such sale, the purchaser thereof shall thereupon be entitled to a deed to the Unit Ownership and, subject to the Board's rights a

provided in Article VIII hereof, to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall provide, that the purchaser shall take the interest in the Property sold subject to this Declaration.

**C. REMEDIES FOR FAILURE TO PAY COMMON EXPENSES.** Each

Unit Owner shall pay his proportionate share of the Common Expenses. Such proportionate share shall be in the same ratio as his percentage of ownership in the Common Elements as set forth in Exhibit 2. In the event of the failure of an Owner to pay such Common Expenses when due, the amount thereof shall constitute a lien on the interest of such Unit Owner, as provided by the Act; provided, however, that such lien shall be subordinate to the lien of a prior recorded first mortgage on the interest of such Unit Owner except for the amount of the Common Expenses which become due and payable from and after the date on which the said first mortgagee either takes possession of the Unit, accepts a conveyance of any interest therein (other than as security), or has a Receiver appointed in any suit to foreclose its mortgage. If any Owner fails to pay any installment of such Common Expenses for which he is responsible, within thirty (30) days after notice of default, the Board may accelerate the maturity of the remainder of installments of such Common Expenses due from such Unit Owner for the balance of the assessment year, and may enforce collection thereof. A late charge' in an amount of \$10.00 per month, and which can be amended by the Board from time to time, shall be charged to and assessed against such defaulting Unit Owner until paid, which late charge shall be subject to review by the Board from time to time. In addition to the foregoing, the Board (or the Trustee or Developer in the exercise of the powers, rights, duties and functions of the Board as provided in Section A of Article XII hereof) or its agents shall have such other rights and remedies to enforce such collection 'as shall otherwise be provided or permitted by law from time to time. Without limiting the generality of the foregoing, if any Unit Owner shall fail to pay his proportionate share of the Common Expenses or of any other expenses required to be paid hereunder when due, such rights and remedies shall include the right to take possession of such Unit Owner's interest in the Property and to maintain for the benefit of all other Unit Owners an action for possession in the manner prescribed by "an act in regard to forcible entry and detainer", approved February 16, 1974, as amended.

**ARTICLE XII**

**GENERAL PROVISIONS**

**A. CERTAIN RIGHTS OF THE DEVELOPER.** Until the time established by the Declaration for the election of the initial Board by the Owners, the rights, titles, powers,

privileges, trusts, duties and obligations vested in or imposed upon the Board in the Act and in this Declaration shall be held and performed by the Developer. If the initial Board shall not be elected by the Unit Owners at the time established by the Declaration, the Developer shall continue in the aforesaid office for a period of thirty days (30) after written notice of its resignation shall be sent to all of the Unit Owners entitled to vote at such election. In exercising such rights, and the other rights reserved by the Developer pursuant to this Declaration, the Developer (or its designee or designees on the Board) shall not be under any disability which would otherwise be imposed by law by reason of the Developer's interest in the subject matter of any transaction, provided, however, that any such transaction shall have been entered into in good faith. Without limiting the generality of the foregoing, the Developer has the right or option to manage the Property for a term which shall expire two (2) years from the date of recording of this Declaration.

**B. NOTICE TO MORTGAGEES.** Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Unit Ownership shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner whose Unit Ownership is subject to such mortgage or trust deed.

**C. MANNER OF GIVING NOTICES.** Notices provided for in this Declaration

and in the Act shall be in writing and shall be addressed to the Board or Association, or any Unit Owner, as the case may be, at 5224-28 N. Winthrop Chicago, Illinois 60640 (indicating the number of a respective unit if addressed to a unit owner) or at such other address as herein provided. Any Unit Owner may designate a different address for notices to him by giving notice of his change of address to the Board or Association. Notices addressed as above shall be deemed delivered three (3) business days after being mailed by United State registered or certified mail, postage prepaid, return receipt requested, or when delivered in person with written acknowledgement of the receipt thereof, or if addressed to a Unit Owner, when deposited in his mailbox in the Building or at the door of his Unit in the Building.

**D. NOTICES TO ESTATE OR REPRESENTATIVES.** Notices required to

be given any devisee, heir or personal representative of a deceased Unit Owner may be delivered either personally or by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased Unit Owner is being administered.

**E. CONVEYANCE AND LEASES.** Each grantee of the Developer and each

subsequent grantee by the acceptance of a deed of conveyance, and each purchaser under a

purchase contract therefore and each tenant under a lease for a Unit, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person having at any time interest or estate in the Property, and shall inure to the benefit of such Unit Owner in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance.

F. **NO WAIVERS.** No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

G. **SPECIAL AMENDMENT.** Developer and/or Trustee reserve 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, 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, quasipublic 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 Act, (iv) to correct any topographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto, or (v) to amend the Plat to show the location of any of the Limited Common elements described herein. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Developer to vote in favor of, or make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed mortgage, trust deed, other evidence of acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power to the Developer or Trustee to vote in favor of, make, execute and Record Special Amendments. The right of the Developer or Trustee to act pursuant to rights reserved or granted under this Section shall terminate upon the Turnover Date.

H. **CHANGE, MODIFICATION, OR RESCISSION.** No provision of this Declaration affecting the rights, privileges and duties of the Developer may be modified without their

respective written consent. The provisions of Section C of Article XI and Section G of Article XII of this Declaration may be changed, modified, or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, and by all of the Unit Owners and all mortgagees having bona fide liens of record against any of the Unit Ownerships. Other provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, Modification or rescission, signed and acknowledged by the Board, and approved by Owners having one hundred percent (100%) of the total vote at a meeting called for that purpose, provided, however, that all holders of first mortgages of record have been notified by certified mail of any change, modification, or rescission, and an affidavit by the Secretary of the Association certifying to such mailing is made a part of such instrument and provided further that any provisions herein which specifically grant rights to holders of first mortgages of record may be amended only with the written consent of all such holders of first mortgages. The change, modification or rescission shall be effective upon recordation of such instrument in the office of the Recorder of Deeds Cook County, Illinois; provided, however, that no such change, modification or rescission shall change the boundaries of any Unit, the allocation of percentages of ownership in the Common Elements and votes in the Association, quorum and voting requirements for action by the Association, or liability for Common Expenses assessed against any Unit, except to the extent authorized by other provisions of this Declaration or by the Act.

**I. PERPETUITIES AND OTHER INVALIDITY.** The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

**J. PERPETUITIES AND OTHER INVALIDITY.** If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provisions, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of George W. Bush, President of the United States.


**K. LIBERAL CONSTRUCTION.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first-class condominium development.

**L. OWNERSHIP BY LAND TRUSTEE.** In the event title to any Unit Ownership is conveyed to a land tide holding trust, under the terms of which all powers of management, operation and control of the unit Ownership remain vested in the trust beneficiary or beneficiaries, then the Unit Ownership under such trust and the beneficiaries thereunder from time to time 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 Ownership. No claim shall be made against any such tide 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



such lien or obligation shall continue to be a charge or lien upon the Unit Ownership and against the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title of such Unit Ownership.

In Witness Whereof, LS & KW LLC has caused its' name to be signed to these presence by its trustee on this 20 day of APRIL 2005.



Managing Member of LS & KW LLC



Managing Member of LS & KW LLC

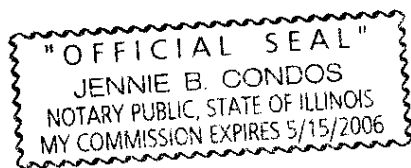


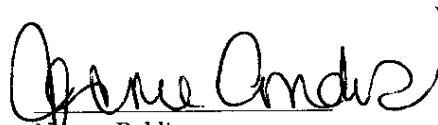
Managing Member of LS & KW LLC

State of Illinois                    )  
                                                  )ss.  
County of Cook                    )

The undersigned, a Notary Public in and for said county, in the aforesaid State, do hereby certify that Christopher LaRocco Joseph LaRocco and Eddy Soto as Managing Members of LS & KW LLC, are known to me to be the same persons whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Dated: this 20 day of April, 2005.



  
Notary Public

**Conversion Certificate - Building Vacant**

STATE OF ILLINOIS     )  
                                  ) ss.  
COUNTY OF COOK     )

**CHRISTOPHER LAROCCO** hereby certifies:

1. He is a MANAGER of **LS & KW, LLC**, Developer of Berwyn Condominium.
2. The Parcel described in Paragraph 2 of the Declaration of Condominium to which this Certificate is attached is a Conversion Condominium as defined in the Illinois Condominium Property Act.
3. No Notice of Intent as required by §30 of the Illinois Condominium Property Act was given as there were no tenants of the Parcel at the time the conversion process commenced.

IN WITNESS WHEREOF, the undersigned executed this Certificate on the 19 day of APRIL, 2006

By: **LS & KW, LLC., a MANAGING MEMBER**

*Christopher Larocco by [Signature]*  
**CHRISTOPHER LAROCCO**

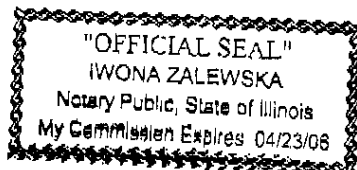
STATE OF ILLINOIS     )  
                                  ) ss.  
COUNTY OF COOK     )

I, *Iwona Zalewska* a Notary Public in and for said County and State, do hereby certify that  
**JOHN GALASEK**

personally known to me to be the same person whose name is subscribed to the foregoing Certificate, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said Certificate as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 19<sup>th</sup> day of April, 2006

*[Signature]*  
Notary Public



# EXHIBIT " " To DECL. OF CONDOMINIUM BERWYN CONDO ASSOC.

BERWYN Condominiums  
Monthly Assessments

UNIT OWNERSHIP %.

Unit	Address	Square Feet	% Share	Expense Share
1A	5228 N. WINTHROP	1341.9	14.30%	\$197
1B	5224 N. "	1337.91	14.26%	\$196
1C	5224 N. "	711.01	7.58%	\$104
1D	5228 N. "	708.11	7.55%	\$104
2A	5228 N. "	1321.22	14.08%	\$194
2B	5224 N. "	609.35	6.49%	\$89
2C	5224 N. "	709.13	7.56%	\$104
3A	5228 N. "	1323.06	14.10%	\$194
3B	5224 N. "	609.13	6.49%	\$89
3C	5224 N. "	711.54	7.58%	\$104
		9,382	100.00%	\$1,375

Approved:

*[Signature]*

Doc#: 0612210107 Fee: \$218.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 05/02/2006 02:01 PM Pg: 1 of 45

# EXHIBIT

## ATTACHED TO

218

BOOK - PAGE BOOK - PAGE BOOK - PAGE BOOK - PAGE BOOK - PAGE BOOK - PAGE BOOK - PAGE BOOK - PAGE BOOK - PAGE BOOK - PAGE BOOK - PAGE BOOK - PAGE BOOK - PAGE BOOK - PAGE

## DOCUMENT

Pg - 44  
Ex - 1

Total - 45

## SEE PLAT INDEX

EXHIBIT "A"

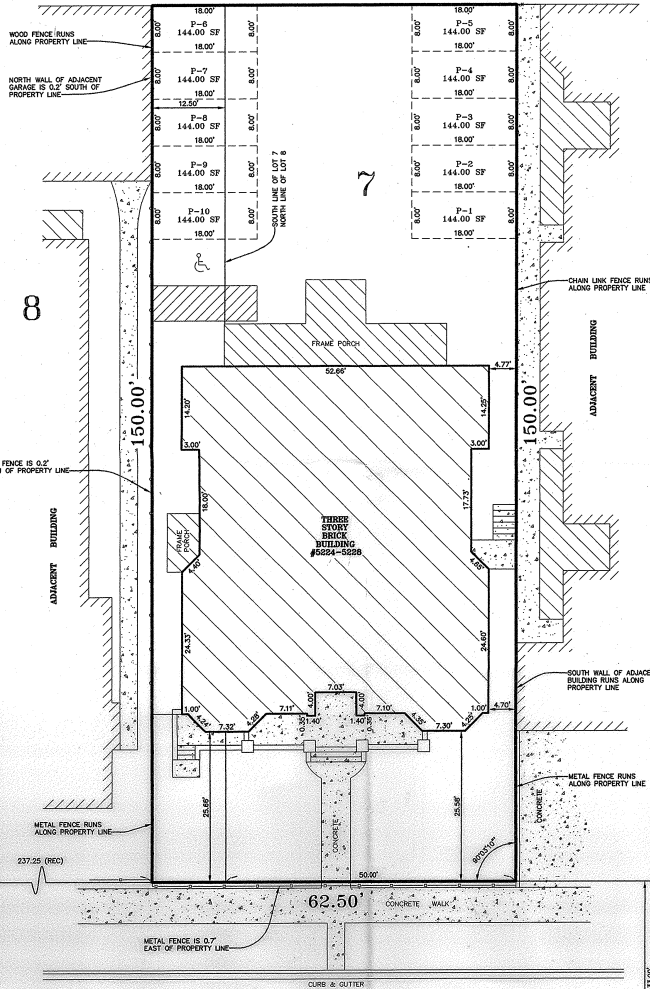
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PIN NO. 14-08-210-013

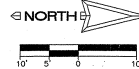
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15' PUBLIC ALLEY

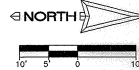
62.50'



WINTHROP AVENUE



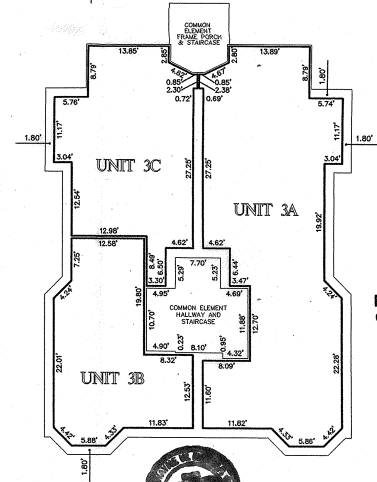
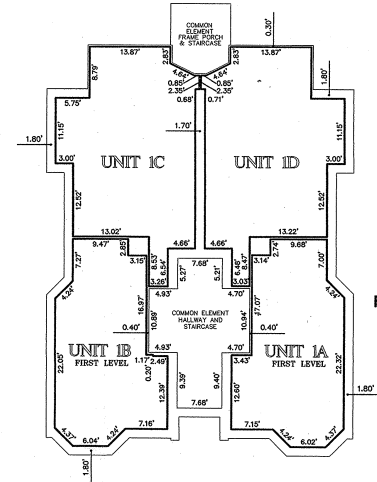
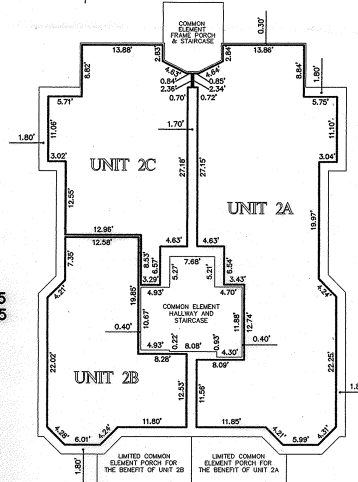
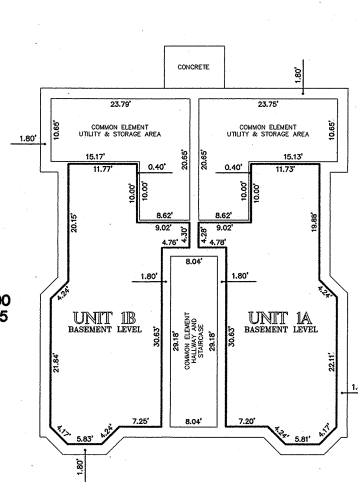
**BASEMENT LEVEL**  
FLOOR ELEVATION=100.00  
CEILING ELEVATION=108.35



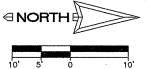
**SECOND LEVEL**  
FLOOR ELEVATION=119.75  
CEILING ELEVATION=129.05

## LEGAL DESCRIPTION

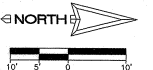
LOT 7 AND THE EAST 12-1/2 FEET OF LOT 8 IN BLOCK 10 IN JOHN LEWIS COCHRAN'S SUBDIVISION OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.



Doc# 0612210107 Fee \$218.00  
Engine "Dana" Moore RRP Fee \$15.00  
Cook County Recorder of Deeds  
Date 10/02/2008 02:01 PM Pg. 1 of 45



**FIRST LEVEL**  
FLOOR ELEVATION=109.40  
CEILING ELEVATION=118.70



**THIRD LEVEL**  
FLOOR ELEVATION=130.10  
CEILING ELEVATION=139.42

JOB ADDRESS:  
5224-5228 WINTHROP AVENUE  
CHICAGO, ILLINOIS

PREPARED FOR:  
L.S. & K.W. LLC

## PERCENTAGE OF OWNERSHIP

UNIT NO.	SQUARE FEET	PERCENTAGE	UNIT NO.	SQUARE FEET	PERCENTAGE
1A	1341.90	12.40	P-1	144.00	1.33
1B	1337.91	12.36	P-2	144.00	1.33
1C	711.01	6.57	P-3	144.00	1.33
1D	708.11	6.55	P-4	144.00	1.33
2A	1321.22	12.21	P-5	144.00	1.33
2B	609.35	5.63	P-6	144.00	1.33
2C	709.13	6.55	P-7	144.00	1.33
3A	1323.06	12.23	P-8	144.00	1.33
3B	609.13	5.63	P-9	144.00	1.33
3C	711.54	6.57	P-10	144.00	1.33
TOTAL=100.00					

FIELD WORK COMPLETED 05/12/05

STATE OF ILLINOIS )  
COUNTY OF DUPAGE ) SS

I, WAYNE W. NEKOLA, ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 2823, DO HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY DESCRIBED IN THE ABOVE CAPTION, LOCATED THE BUILDINGS THEREON AND DIVIDED SAID BUILDING, BOTH HORIZONTALLY AND VERTICALLY, AS A CONDOMINIUM AS SHOWN ON THE HEREON DRAWN PLAT, WHICH IS A CORRECT REPRESENTATION OF SAID SURVEY AND SUBDIVISION. ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMAL PARTS THEREOF AND ARE CORRECTED TO A TEMPERATURE OF 68 DEGREES FAHRENHEIT.

DATED THIS 16TH DAY OF APRIL, 2006.

*Wayne W. Nekola*  
WAYNE W. NEKOLA  
EXPIRES: NOVEMBER, 2006

1. THE HORIZONTAL BOUNDARIES OF THE UNITS ARE FORMED BY THE INTERIOR FINISHED SURFACES OF THE CONCRETE FLOORS AND CEILINGS.  
2. THE VERTICAL BOUNDARIES OF THE UNITS ARE THE PLANES FORMED BY THE INTERIOR FINISHED SURFACE OF THE FORMER WALLS AND LATERAL EXTENSIONS THEREOF.

3. ALL ELEVATIONS ARE TAKEN FROM THE FOLLOWING SITE BENCHMARK:  
FIRST FLOOR ELEVATION=100.00 (ASSUMED)

**MORRIS**  
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