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540 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS

RECIPROCAL EASEMENT AGREEMENT

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AFTER RECORDATION TO:

Julie O. Ehrlich
Jones, Day, Reavis & Pogue
77 West Wacker Drive
Chicago, Illinois 60601

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RECIPROCAL EASEMENT AGREEMENT

THIS RECIPROCAL EASEMENT AGREEMENT (this "**Agreement**") is made and entered into as of January 25, 2000 by and between CHICAGO 540 HOTEL, L.L.C., a Delaware limited liability company ("**Hotel SPV**") and RN 540 HOTEL COMPANY, L.L.C., a Delaware limited liability company ("**Retail SPV**").

RECITALS

A. Hotel SPV and Retail SPV each own certain fee interests in a hotel and retail project (as the same may be modified, altered, reconstructed, or reconfigured from time to time in accordance with this Agreement and subject to the terms and provisions of this Agreement, the "**Project**") on a parcel of land in Chicago, Illinois (the "**Project Site**"). The Project Site is located in the block bounded by North Rush Street, East Grand Avenue, North Michigan Avenue, and East Ohio Street and is legally described on attached **Exhibit A**. The Project Site has been zoned as part of Business Planned Development No. 124, under the zoning ordinance of the City of Chicago, Illinois (such planned development, as it may be amended from time to time, is referred to in this Agreement as the "**PUD**").

B. Hotel SPV owns (i) the western portion of the Project Site and (ii) certain air rights parcels above the eastern portion of the Project Site and below street level of the eastern portion of the Project Site (collectively, the "**Hotel Parcel**"), all as legally described on attached **Exhibit B** and delineated on the Survey (as defined in **Article I**). The portion of the Project constructed on and within the Hotel Parcel consists generally of (A) entries, lobby, kitchen, restaurant space, office and administrative facilities, mechanical facilities and loading docks at and below street level; (B) approximately 1,176 hotel rooms on floors 10 through 46; (C) second floor retail space overlooking the hotel lobby; (D) conference facilities on the second through tenth floors and a swimming pool on the ninth floor; and (E) connecting elevator shafts and stairwells. Such portion of the Project is referred to in this Agreement as the "**Hotel Building**".

C. Retail SPV owns the eastern portion of the Project Site, excluding certain air rights parcels above such portion owned by Hotel SPV and excluding a certain portion below street level owned by Hotel SPV (collectively, the "**Retail Parcel**"), all as legally described on **Exhibit C** and delineated on the Survey. The portion of the Project constructed within the Retail Parcel consists generally of (A) certain retail space, pedestrian entries, and stairways on the ground floor; (B) below grade storage space; (C) an additional level of retail on the second floor; and (D) connecting elevator shafts, escalators, and stairwells. Such portion of the Project is referred to in this Agreement as the "**Retail Building**".

D. The Survey illustrates and depicts the Project and the relative locations of the Retail Building and the Hotel Building which collectively comprise the Project.

E. Neither the Hotel Building nor the Retail Building is or will be structurally independent of the other and each will depend upon the other, to some extent, for structural support, enclosure, ingress and egress, and certain facilities and components necessary for the operation and use of the Hotel Building and the Retail Building. Hotel SPV and Retail SPV desire by this Agreement to provide easements and establish covenants and restrictions for the benefit and protection of the respective portions of the Project. The easements, covenants and restrictions set

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forth in this Agreement are intended to create interests in real property, run with the land and be binding upon all future owners of the Hotel Parcel and the Retail Parcel. This Agreement shall not be deemed to be an executory contract.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements of the parties hereto, it is hereby agreed as follows:

ARTICLE I

DEFINITIONS

1.1 Definitions. Whenever used in this Agreement, the following terms shall have the respective meanings specified below:

ADMINISTRATIVE FEE - An amount equal to \$1,250.00 (in 2000 Equivalent Dollars) per calendar quarter.

AGREEMENT - This Reciprocal Easement Agreement, together with all Exhibits, amendments and supplements hereto.

ALTERATIONS - As defined in Section 14.1(A).

ALTERING OWNER - As defined in Section 14.1(A).

APPRAISED VALUE PERCENTAGE - A fraction (expressed as a percentage) the numerator of which is the appraised value of the Parcel in question and the denominator of which is the appraised value of the Project.

APPRAISER - As defined in Section 7.3.

ARBITRABLE DISPUTE - Any dispute arising under this Agreement which is subject to arbitration under the provisions of Article XI hereof.

ARCHITECT - As defined in Section 18.1.

ASSESSOR - As defined in Section 7.1.

AWARD - As defined in Section 13.1.

BOILER METER - As defined in Section 5.9(B).

BUILDING(S) - A collective reference to the Hotel Building, the Retail Building and any other improvements located on the Project Site, or any of them.

COMMON ELEMENTS - A collective reference to: (A) the hallways in the "basement floor of the Hotel Building" (as designated on page 2 of the Survey) between (i) the Loading Area and the portion of the Hotel Parcel identified on the Survey as "Elevator #13" and "Elevator #14", (ii) the Loading Area and the portion of the Retail Parcel identified on page 2 of the Survey as "B-4"

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and "B-5", (iii) the trash area described in **Section 2.10** and the portion of the Hotel Parcel identified on the Survey as "Elevator #13" and "Elevator #14", and (iv) the trash area described in **Section 2.10** and the portion of the Retail Parcel identified on the Survey as "B-4" and "B-5"; (B) the portion of the Hotel Parcel identified on pages 2 and 3 of the Survey as "Elevator #13" and "Elevator #14"; (C) the trash area described in **Section 2.10**; (D) the portion of the Roof and Hotel Building that is being used by Retail Owner pursuant to **Section 2.15**; (E) a reasonable portion of the Project that provides for reasonable access by Persons between the Roof that is being used by Retail Owner or will be used by Retail Owner and the Retail Parcel pursuant to **Section 2.15** as such portion of the Project may be reasonably designated by Hotel Owner from time to time; (F) any Facilities that serve a Parcel or are connected to any Facilities that serve a Parcel but are located within the other Parcel; (G) the portion of the Project that is used for ingress to and egress from Grand Avenue or any other publically dedicated street from or to the Loading Area; (H) any other portion of a Parcel that is necessary, or required under applicable Laws, to provide the other Parcel with any utilities or other services required to use and operate such Parcel in accordance with the terms of this Agreement; (I) all portions of the walls and horizontal slabs of a Parcel which also serve as walls, ceilings, or floors of the other Parcel; (J) all Structural Supports located in a Parcel that are necessary to support the other Parcel; (K) the exterior roof, walls and facade of the Project and windows and other exterior features located thereon and therein; (L) areas on, above and under adjacent sidewalks and streets to the extent the same are located on or adjacent to the Project Site; and (M) any other improvements or facilities that are necessary for the Common Elements that are defined in subsections (A) through (L) above to perform the function for which they are intended.

CONSUMER PRICE INDEX - As defined in **Section 11.2**.

CREDITOR OWNER - An Owner to whom payment of money or other duty or obligation is owed under this Agreement by the other Owner who has failed to make such payment or to perform such duty or obligation as and when required hereunder.

DEDUCTIBLE PAYMENT - As defined in **Section 5.1(A)**.

DEFAULTING OWNER - An Owner who has failed to make payment of money owed under this Agreement to the other Owner or to perform any of its duties or obligations as and when required under this Agreement.

DEPOSITARY - The Person from time to time acting pursuant to **Article XVI**.

EASEMENT FACILITIES - A collective reference to the Hotel Easement Facilities, the Retail Easement Facilities, or any of them.

EASEMENTS - A collective reference to any and all easements provided for, declared, granted, reserved or created pursuant to the terms and provisions of this Agreement.

EMERGENCY SITUATION - A situation impairing or imminently likely to impair structural support of any portion of the Buildings or causing or imminently likely to cause bodily injury or death to persons or substantial physical damage to the Project or any property in, on, under, within, upon or about the Project or substantial economic loss to an Owner. The duration of an Emergency Situation shall be deemed to include the time reasonably necessary to remedy the Emergency Situation.

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ENVIRONMENTAL LAWS - All federal, state and local environmental laws, rules, statutes, directives, binding written interpretations, binding written policies, ordinances and regulations issued by any governmental authorities and in effect from time to time with respect to or which otherwise pertain to or affect the Project, the Project Site or any portion thereof, the use, ownership, occupancy or operation of the Project or the Project Site, or any portion thereof, or any Owner, and as same have been or may be amended, modified or supplemented from time to time, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 et seq.) ("**CERCLA**"), the Hazardous Substances Transportation Act (49 U.S.C. § 1802 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.) ("**RCRA**"), the Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. § 300f et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Solid Waste Disposal Act (42 U.S.C. § 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. § 11001 et seq.), the Radon and Indoor Air Quality Research Act (42 U.S.C. § 7401 note, et seq.), the Superfund Amendment Reauthorization Act of 1986 (42 U.S.C. § 9601 et seq.), comparable state and local laws, and any and all rules and regulations which have or may become effective under any and all of the aforementioned laws.

EQUITABLE SHARE - As defined in Section 16.1.

ESTIMATE - As defined in Section 9.8(A).

ESTOPPEL CERTIFICATE - As defined in Section 15.1.

EXIT EASEMENT AGREEMENT - That certain Emergency Exit Easement Agreement dated as of January 21, 2000 between RN 540 Hotel Company, L.L.C., a Delaware limited liability company and RN 124/125 Company, L.L.C., a Delaware limited liability company, together with all amendments, modifications, revisions, and supplements thereto.

EXTERIOR BUSTLE - As defined in Section 2.12.

EXTERIOR BUSTLE MAINTENANCE EASEMENT - As defined in Section 2.12.

FACILITIES - Any annunciators, antennae, boxes, brackets, cabinets, cables, coils, computers, conduits, controls, control centers, cooling towers, couplers, devices, ducts, equipment (including, without being limited to heating, ventilating, air conditioning and plumbing equipment), fans, fixtures, generators, hangers, heat traces, indicators, junctions, lines, machines, meters, motors, outlets, panels, pipes, pumps, radiators, risers, starters, switches, switchboards, systems, tanks, transformers, valves, wiring, and the like used in providing services from time to time in any part of the Project, including, without being limited to, air conditioning, alarm, antenna, circulation, cleaning, communication, cooling, electric, elevator, exhaust, heating, natural gas, plumbing, radio, recording, sanitary, security, sensing, telephone, television, transportation, ventilation and water service.

HAZARDOUS MATERIALS - All (A) asbestos, radon gas, electromagnetic waves, urea formaldehyde foam insulation and transformers or other equipment that contains dielectric fluid containing polychlorinated biphenyls of 50 ppm or greater, (B) any solid, liquid, gaseous or thermal contaminant, including smoke vapor, soot, fumes, acids, alkalis, chemicals, waste, petroleum

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products or byproducts, asbestos, PCBs, phosphates, lead or other heavy metals, chlorine, or radon gas, (C) any solid or liquid wastes (including hazardous wastes), hazardous air pollutants, hazardous substances, hazardous chemical substances and mixtures, toxic substances, pollutants and contaminants, as such terms are defined in any Environmental Law and (D) any other chemical, material or substance, the use or presence of which, or exposure to the use or presence of which, is prohibited, limited or regulated by any Environmental Laws.

HOTEL BUILDING - As defined in **Recital B**.

HOTEL EASEMENT FACILITIES - The Facilities located in the Retail Property (A) benefitting the Hotel Building, or (B) necessary for Hotel Owner to perform its obligations under **Section 5.1** of this Agreement.

HOTEL GUEST - A person renting or otherwise occupying a room in the Hotel Building.

HOTEL OWNER - The Person or Persons whose estates or interests, individually or collectively, aggregate, from time to time, fee simple ownership of the Hotel Parcel. Initially, Hotel Owner is Hotel SPV, as defined in the preamble to this Agreement.

HOTEL PARCEL - As defined in **Recital B**.

HOTEL PROPERTY - The Hotel Parcel improved with the Hotel Building.

HOTEL SPV - As defined in the introductory paragraph of this Agreement.

IMPOSITIONS - All taxes and other governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against the Project Site or Project, the improvements located therein, or any part thereof or any interest therein, including without limiting the generality of the foregoing, all general and special real estate taxes and assessments or taxes assessed specifically in whole or in part in substitution of general real estate taxes or assessments, all ad valorem taxes lawfully assessed upon the Project Site, the Project or the improvements located therein, and any other charges imposed by a taxing authority lawfully made for improvements that may be secured by a lien on any portion of the Project. Notwithstanding the foregoing, Impositions shall not include any income taxes, franchise taxes or taxes levied on rents, revenues or receipts with respect to the Project or Project Site.

INDEMNIFYING OWNER - As defined in **Section 6.1**.

INDEMNITEE - As defined in **Section 6.1**.

LAW(S) - All laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen and unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Project, the Project Site or any parts thereof.

LOADING AREA - As defined in **Section 2.9**.

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LOADING AREA MAINTENANCE PAYMENT - An amount equal to \$312.00 (in 2000 Equivalent Dollars) per calendar quarter.

MAINTENANCE - Operation, maintenance, repair, reconditioning, refurbishing, reconfiguration, inspection, testing, cleaning, sanitation, pest and rodent control, painting, installation, restoration and replacement, each when necessary or desirable, of the Project or the Facilities and includes the right of access to and the right to remove from the Project portions of such Facilities for any of the above purposes, subject, however, to any limitations set forth elsewhere in this Agreement.

MARRIOTT - Marriott Hotel Services, Inc. and/or its affiliates.

MECHANICS' LIEN ACT - As defined in Section 14.3.

MORTGAGE - As defined in Section 20.11.

MORTGAGEE - As defined in Section 20.11.

MULTIPLE OWNERS - As defined in Section 19.2.

NON-PERFORMING OWNER - As defined in Article XII.

NORTH MICHIGAN AVENUE STANDARD - The use of and the standard of quality of construction, operation and maintenance, as the context indicates, which (A) with respect to the Retail Property, is at least equal to that of other first class space that fronts on North Michigan Avenue, Chicago, Illinois (i.e. the portion of North Michigan Avenue that is north of the Chicago River and south of Oak Street) and (B) with respect to the Hotel Property (i) for so long as Marriott manages the Hotel Property, is at least equal to the use of and the standards for construction, operation and maintenance promulgated by Marriott and (ii) from and after the date that Marriott ceases to manage the Hotel Property, is at least equal to that (a) of other first class full service urban hotels in Chicago if the Hotel Property is used as a hotel and (b) of other similarly situated first class projects located on North Michigan Avenue, Chicago, Illinois (i.e. the portion of North Michigan Avenue that is north of the Chicago River and south of Oak Street) if the Hotel Property is used for any use other than a hotel.

OBJECTING PARTY - As defined in Section 14.1(C).

OWNER(S) - Retail Owner, Hotel Owner or either of them.

OWNER'S SHARE - The amount of insurance proceeds or Awards attributable to such Owner's portion of the Building less the product of 110% multiplied by the portion of the Estimate attributable to such Owner pursuant to Article IX or Article XIII, as applicable.

PARCEL(S) - The Retail Parcel, the Hotel Parcel, or either of them.

PARKING EASEMENT AGREEMENT - As defined in Section 6.4(F).

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PERMITTEES - The Owners, all Persons authorized as invitees of an Owner or entitled by lease or license to use or occupy space within the Project, and their respective officers, directors, employees, agents, partners, contractors, invitees and licensees.

PERSON(S) - Individuals, partnerships, limited liability companies, associations, corporations, trusts, land trusts, and any other form of business organization, or one or more of them.

PRE-SELECTED APPRAISERS - Any of KPMG Peat Marwick, Arthur Andersen & Co., Ernst & Young, Landauer, or PriceWaterhouseCoopers.

PROJECT - As defined in Recital A.

PROJECT SITE - As defined in Recital A.

PUD - As defined in Recital A.

RECORDER - The Recorder of Deeds of Cook County, Illinois.

REMOVAL WORK - (A) The removal, in as timely a manner as practicable under the circumstances and in accordance with all Laws, of all elements of the Hotel Building that are damaged by fire or other casualty or damaged pursuant to a taking by the power of the exercise of the power of eminent domain or deed in lieu thereof and that Hotel Owner elects pursuant to Section 9.5, Section 9.6, Section 10.3, or Section 10.4 not to restore or repair, and (B) to the extent Hotel Owner elects not to repair or restore any portion of the Hotel Building pursuant to Section 9.5, Section 9.6, Section 10.3, or Section 10.4 that affects the ceiling or roof above the Retail Parcel, the construction of a roof and ceiling, as applicable, over and above the Retail Parcel that complies with the provisions of Section 2.15, complies with applicable Laws, and that effectively encloses the Retail Parcel.

RESPONSIBLE PARTY - As defined in Section 6.1.

RETAIL BUILDING - As defined in Recital C.

RETAIL EASEMENT FACILITIES - Facilities located in the Hotel Property benefitting the Retail Building, excluding Facilities the Maintenance for which Hotel Owner is expressly responsible under Section 5.1 hereof.

RETAIL OWNER - The Person or Persons whose estates or interests, individually or collectively, aggregate, from time to time, fee simple ownership of the Retail Parcel. Initially, Retail Owner is Retail SPV, as defined in the preamble to this Agreement.

RETAIL PARCEL - As defined in Recital C.

RETAIL PROPERTY - The Retail Parcel as improved with the Retail Building.

RETAIL SPV - As defined in the introductory paragraph of this Agreement.

ROOF - As defined in Section 2.15.

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SELECTED ARCHITECT - As defined in Section 9.6.

SIDEWALK MAINTENANCE EASEMENT - As defined in Section 3.10.

STRUCTURAL SUPPORTS - All construction elements (including, without limitation, footings, foundations, slabs, caissons, columns, beams, braces and trusses) which are load bearing or which are necessary for the structural integrity of any Building.

SURVEY - Survey No. 992008 dated January 19, 2000, prepared by Gremley & Biederman, Inc., consisting of five (5) pages, delineating the perimeters and the various elevations of the horizontal planes separating the Hotel Building from the Retail Building and certain other areas and aspects of the Project, a copy of which is attached hereto as **Exhibit F**, as such survey may be updated or modified in accordance with this Agreement.

2000 EQUIVALENT DOLLARS - As defined in Section 11.2.

UNAVOIDABLE DELAY - As defined in Article XII.

UTILITY COMPANY - Any Person, including governmental bodies, furnishing water, electricity, sewer, gas, steam, telephone or cable television service or other services or materials generally known as utilities.

WORK - As defined in Section 17.1.

1.2 **Construing Various Words and Phrases.** Wherever it is provided in this Agreement that a party "may" perform an act or do anything, it shall be construed that such party "may, but shall not be obligated to," so perform or so do. The following words and phrases shall be construed as follows: (i) "At any time" shall be construed as "at any time or from time to time;" (ii) "Any" shall be construed as "any and all;" (iii) "Including" shall be construed as "including but not limited to;" (iv) "Will" and "shall" shall each be construed as mandatory; and (v) the word "in" with respect to an easement granted or reserved "in" a particular Parcel shall mean "in," "to," "over," "within," "through," "upon," "across," "under," and any one or more of the foregoing. Except as otherwise specifically indicated, all references to Article, Subarticle, Section and Subsection numbers or letters shall refer to Articles, Subarticles, Sections and Subsections of this Agreement and all references to Exhibits shall refer to the Exhibits attached to this Agreement. The words "herein," "hereof," "hereunder," "hereinafter," and words of similar import shall refer to this Agreement as a whole and not to any particular Section or Subsection. Forms of words in the singular, plural, masculine, feminine or neuter shall be construed to include the other forms as context may require. Captions and the index are used in this Agreement for convenience only and shall not be used to construe the meaning of any part of this Agreement.

ARTICLE II

EASEMENTS APPURTENANT TO RETAIL PARCEL

2.1 **In General.** For the purposes of this Article II, the following shall apply:

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(A) Hotel Owner is the grantor of the Easements described in this **Article II**. The Easements granted in this **Article II** shall burden the Hotel Parcel as the servient tenement and shall bind and be enforceable against Hotel Owner and its successors and assigns with respect to the Hotel Property.

(B) Retail Owner is the grantee of the Easements granted in this **Article II**. Such Easements shall be appurtenant to the Retail Parcel as the dominant tenement and shall benefit Retail Owner and its successors, assigns and Permittees with respect to the Retail Property.

(C) Unless otherwise expressly provided in this Agreement, all Easements granted to Retail Owner in this Agreement shall run with the land and are irrevocable and perpetual in nature.

(D) The use of an Easement shall be limited to use for the function for which the improvements subject to the Easement in question was initially designed and constructed, unless another use is expressly set forth in this Agreement; and any Easements provided or reserved under this Agreement which are designated as non-exclusive shall permit the owner of the servient tenement to utilize such Easement areas for its own purposes or grant other easements or interests therein which are not inconsistent with that of the dominant tenement hereunder and which do not materially adversely affect the benefits intended to be granted by this Agreement. Unless otherwise expressly provided in this Agreement, Retail Owner shall use commercially reasonable efforts to use all non-exclusive Easements granted to Retail Owner in or reserved for the benefit of Retail Owner under this Agreement in a manner that will minimize the interference with Hotel Owner's and its Permittees' use of the Hotel Property. Any Easements provided or reserved under this Agreement which are designated as exclusive shall permit the owner of the servient tenement to utilize such areas for its own purposes, provided such use does not unreasonably interfere with the use by the dominant tenement and provided further that such owner may not grant other easements or interests therein.

(E) Any Owner of all or any portion of the Hotel Building may, (1) in connection with the Maintenance of its portion of the Hotel Building, or (2) in an Emergency Situation, or (3) to prevent a dedication of or accruing of rights, by the public in and to use of any of its portion of the Hotel Building, temporarily prevent, close off or restrict the flow of pedestrian or vehicular ingress, egress or use over, across and through any of the Easements, but only to the minimal extent and for the shortest time period reasonably necessary under the circumstances in order to minimize the effect on the user of such Easement; provided, however, Hotel Owner shall not be obligated to incur overtime expense, except in the case of an Emergency Situation, unless Retail Owner agrees in writing to reimburse Hotel Owner for Hotel Owner's actual out-of-pocket overtime costs and expenses incurred in connection with the Maintenance of its portion of the Hotel Building. Hotel Owner, from time to time, consistent with the requirements of the business carried on in the dominant tenement, may impose (1) reasonable limitations on any other Owner's or any Permittees' use of an Easement providing for ingress and egress over the portions of the Hotel Building or use of the loading docks and elevators or stairwells described in this **Article II**, including establishing paths of ingress and egress, restrictions on hours of the day or days of the week during which any other Owner or Permittee may use such Easement and reasonable procedures for scheduling use of the loading docks and service elevators, and (2) security controls consistent with such Owner's operation of its business on its portion of the Project; provided, however, that such limitations and controls shall not (x) create a hazardous condition, (y) unreasonably limit emergency ingress and

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egress rights, or (z) adversely affect the principal benefits intended to be granted pursuant to this Agreement.

(F) Any disputes concerning the existence, location, nature and scope of any of the Easements granted under this **Article II** shall constitute an Arbitrable Dispute.

(G) To the extent that Retail Owner desires to use any of the Easements granted pursuant to **Section 2.2, Section 2.3, Section 2.4, Section 2.6, Section 2.7, Section 2.12, Section 2.14, or Section 2.15** and except in the case of an Emergency Situation, Retail Owner shall provide Hotel Owner prior written or oral notice of such intended use which notice shall specify the manner in which the Easement will be used and the anticipated time period of such use. Hotel Owner shall have the right, in its reasonable discretion, to consent to the time period and the manner in which such Easement will be used; provided, however, in no event shall Hotel Owner restrict or limit Retail Owner's use of such Easement in such a way that there would be a material adverse affect on the benefits intended to be granted by this Agreement.

2.2 Maintenance of Retail Building. Hotel Owner hereby grants to Retail Owner a non-exclusive Easement in the Hotel Property, subject to reasonable rules and regulations provided by Hotel Owner to Retail Owner in writing from time to time, for ingress and egress for persons, material and equipment over, on, across and through the Hotel Property to the extent reasonably necessary to permit the Maintenance (if and when required or permitted under this Agreement and subject to the terms of this Agreement) of the Retail Building.

2.3 Structural Support. Hotel Owner hereby grants to Retail Owner a non-exclusive Easement in all structural members and other Structural Supports located in or constituting a part of the Hotel Property for the support of (A) the Retail Building and (B) any Facilities or areas located in the Hotel Property with respect to which Retail Owner is granted an Easement under this Agreement.

2.4 Facilities. Hotel Owner hereby grants to Retail Owner (A) an exclusive Easement for the Maintenance and use of the Retail Easement Facilities that serve the Retail Property exclusively, subject to the rights of Hotel Owner set forth in **Section 5.3** hereof and (B) a non-exclusive Easement (i) for the use in common with Hotel Owner for their intended purposes of all other Retail Easement Facilities at any time located in the Hotel Property and connected to Facilities located in the Retail Property (and any replacements thereof) which provide or shall be necessary to provide the Retail Building with any utilities or other services which may otherwise be necessary to the operation of the Retail Building and (ii) permitting the exercise of the rights granted to Retail Owner pursuant to **Section 5.3** hereof during any period in which said rights may be exercised.

2.5 Intentionally Deleted.

2.6 Common Walls, Ceilings and Floors. Hotel Owner hereby grants to Retail Owner a non-exclusive Easement for support, enclosure, use and Maintenance with respect to those walls and horizontal slabs constructed in and along the common boundaries of the Hotel Parcel and the Retail Parcel which also serve as walls, ceilings or floors for the Retail Building.

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without Hotel Owner's and its Mortgagee's prior written consent which consent can be withheld or conditioned in Hotel Owner's sole discretion.

2.11 Service Elevator. Hotel Owner hereby grants to Retail Owner a non-exclusive Easement for the use by Retail Owner and its Permittees in common with Hotel Owner and its Permittees of the service elevators identified on pages 2 and 3 of the Survey as "Elevator #13 and Elevator #14", which use shall be subject to reasonable rules and regulations provided by Hotel Owner to Retail Owner in writing from time to time. In addition, Hotel Owner hereby grants to Retail Owner a non-exclusive Easement for ingress and egress for access to "Elevator #13 and Elevator #14" from the Retail Parcel through the corridors and entries located adjacent to the portion of the Retail Parcel identified as "A-10" and shown on page 3 of the Survey as "Easement Area (2.11)", which access and use shall be subject to reasonable rules and regulations provided by Hotel Owner to Retail Owner in writing from time to time.

2.12 Exterior Maintenance. Hotel Owner hereby grants to Retail Owner a non-exclusive Easement for access to and over the exterior portions of the Hotel Building located on the east side of the Building above the Retail Building level and identified on **Exhibit I** as "the Michigan Avenue Bustle" (the "**Exterior Bustle**") for purposes of completion of the facade of the Exterior Bustle (as more particularly described in **Section 5.2**), Maintenance of the Exterior Bustle, Maintenance of the exterior portion of the Retail Building, and the washing of the windows of the Retail Building. This Easement is referred to as the "**Exterior Bustle Maintenance Easement**".

2.13 Fire Exits. Hotel Owner hereby grants to Retail Owner, for the benefit of the Retail Property, non-exclusive easements for pedestrian access, ingress and egress in the event of fire, Emergency Situation or other situation beyond the reasonable control of Retail Owner which necessitates the use of (A) the first floor corridor and the second floor corridor located on the north side of the Hotel Building identified on pages 2 and 3 of the Survey as "Easement 2.13(A)"; (B) the emergency exit that is the subject of the Exit Easement Agreement together with the corridor that is located on the first floor and the second floor on the Survey and identified on pages 2 and 3 of the Survey as "Stairway Easement 2.13(B) & 3.2"; and (C) the first floor level corridor located on the north side of the Hotel Building west of the Retail Building identified on page 2 of the Survey as "Emergency Access Easement 2.13(C)".

2.14 Easement to Permit Exercise of Cure Rights. In the event Retail Owner exercises its rights under **Section 9.3(A)**, **Section 6.3(C)(i)**, **Section 6.4(A)**, or **Section 5.4(A)**, Hotel Owner hereby grants to Retail Owner, for the benefit of the Retail Property, a temporary, non-exclusive easement in the Hotel Building for access, ingress and egress for Persons, materials and equipment over, on, across and through the Hotel Building to the extent reasonably necessary and solely for Retail Owner to exercise its rights under and pursuant to **Section 9.3(A)**, **Section 6.3(C)**, **Section 6.4(A)**, and **Section 5.4(A)**. The Easement described in this **Section 2.14** shall commence when Retail Owner elects to exercise such rights and automatically shall terminate when Retail Owner has cured such default.

2.15 Use of Roof. Hotel Owner hereby agrees that Retail Owner and its Permittees shall have a license to erect and Maintain antennae or similar communication devices on the usable portions of the 9th floor roof and the 46th floor roof of the Project (as such roof of the Project may be relocated or reconfigured pursuant to the terms of this Agreement, the "**Roof**") provided: (A) such antennae and similar communication devices are permitted by and are installed, Maintained and

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operated in all events in accordance with applicable Laws; (B) such antennae and similar communication devices do not and will not exceed the load-bearing capacity of the Roof in the location that such antennae or similar communications device is to be installed; (C) the location of such antennae or similar communications devices are approved by Hotel Owner, in its reasonable discretion; (D) such antennae or similar communication devices shall be used by Retail Owner or its Permittees solely in connection with the operation of its business within the Retail Property; (E) such antennae or similar communication devices shall be Maintained by the Retail Owner or its Permittees; (F) such antennae or similar communication devices shall be installed on the Roof in compliance with any warranty relating to the Roof; (G) the Retail Owner shall repair any and all damage to the Roof or the Hotel Property caused by the installation and Maintenance of such antennae or similar communications devices; and (H) the three (3) antennae located on the 9th floor portion of the Roof as of the date hereof may remain on the 9th floor portion of the Roof and other antennae or similar communications devices may be substituted or replaced therefor (provided such replacement or substitute antennae or similar communications devices comply with the provisions of this Agreement) but there shall be no additional antennae or similar communication devices placed on the 9th floor portion of the Roof without Hotel Owner's prior consent which consent can be withheld in Hotel Owner's sole discretion. Notwithstanding anything to the contrary in this **Section 2.15**, neither Retail Owner nor its Permittees shall be entitled to use in excess of ten percent (10%) of the usable capacity of or usable square foot floor area of the Roof for the installation or erection of antennae or similar communication devices except Retail Owner and its Permittees shall be entitled to use in excess of ten percent (10%) but not in excess of fifteen percent (15%) of the usable capacity of or usable square foot floor area of the Roof for the installation or erection of antennae or similar communication devices to the extent necessary for Retail Owner to comply with the terms and provisions of the Virgin Records Lease and the Cole Lease (as such terms are defined in **Exhibit H**). Retail Owner shall provide Hotel Owner with prior notice of the installation of any such antennae or similar communication devices or performing any Maintenance with respect to the same. Retail Owner agrees to make reasonable efforts to perform any such installations or Maintenance in a manner so that the installation and the operation of any such antennae or similar communications devices minimize disruptions or inconvenience to Hotel Owner and its Permittees and during hours requested by Hotel Owner. Hotel Owner shall have the right to have a representative present on the Roof whenever Retail Owner or any of its Permittees is installing any antennae or other similar communication devices or performing any Maintenance thereon. Hotel Owner and Retail Owner, or any antennae or other similar communication devices installed by or on behalf of such Owner or its Permittees; shall not interfere with the use or operation of any antennae or other similar communication devices installed on the Roof by the other Owner or their Permittees prior to the installation of such new antennae or other similar communication device to be installed by the Owner. If either Owner desires to install or relocate any antennae or other similar communications devices and such antennae or similar communications devices will interfere with any then existing antennae or similar communications devices, such Owner shall have the right, at its sole cost and expense, to relocate such then existing antennae or other similar communications device to an alternate location on the Roof so that the proposed or relocated antennae or other similar communications devices do not cause interference with or prevent the use of the existing antennae or similar communications devices provided such relocation, removal and installation complies with the other provisions of this **Section 2.15**.

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ARTICLE III

EASEMENTS APPURTENANT TO HOTEL PARCEL

3.1 In General. For the purposes of this **Article III**, the following shall apply:

(A) Retail Owner is the grantor of the Easements described in this **Article III**. The Easements granted in this **Article III** shall burden the Retail Parcel as the servient tenement and shall bind and be enforceable against Retail Owner and its successors and assigns with respect to the Retail Property.

(B) Hotel Owner is the grantee of the Easements described in this **Article III**. Such Easements shall be appurtenant to the Hotel Parcel as the dominant tenement and shall benefit Hotel Owner and its successors, assigns and Permittees.

(C) Unless otherwise expressly provided in this Agreement, all Easements granted to Hotel Owner in this Agreement shall run with the land and are irrevocable and perpetual in nature.

(D) The use of an Easement shall be limited to the use for the function for which the improvements subject to the Easement in question was initially designed and constructed unless another use is expressly set forth in this Agreement; and any Easements provided or reserved under this Agreement which are designated as non-exclusive shall permit the owner of the servient tenement to utilize such Easement areas for its own purposes or grant other easements or interests therein which are not inconsistent with that of the dominant tenement hereunder and which do not materially adversely affect the benefits intended to be granted by this Agreement. Unless otherwise expressly provided in this Agreement, Hotel Owner shall use commercially reasonable efforts to use all non-exclusive Easements granted to Hotel Owner in or reserved for the benefit of Hotel Owner under this Agreement in a manner that will minimize the interference with Retail Owner's and its Permittees' use of the Retail Property. Any Easements provided or reserved under this Agreement which are designated as exclusive shall permit the owner of the servient tenement to utilize such areas for its own purposes, provided such use does not unreasonably interfere with the use by the dominant tenement and provided further that such owner may not grant other easements or interests therein.

(E) Any Owner of all or any portion of the Retail Building may, (1) in connection with the Maintenance of the Retail Building, or (2) in an Emergency Situation, or (3) to prevent a dedication of or accruing of rights by the public in and to use of any of its Parcel: temporarily prevent, close off or restrict the flow of pedestrian or vehicular ingress, egress or use over, across and through any of the Easements, but only to the minimal extent and for the shortest time period reasonably necessary under the circumstances in order to minimize the effect on the user of such Easement; provided, however, Retail Owner shall not be obligated to incur overtime expense, except in the case of an Emergency Situation, unless Hotel Owner agrees in writing to reimburse Retail Owner for Retail Owner's actual out-of-pocket overtime costs and expenses incurred in connection with the Maintenance of the Retail Building. Retail Owner, from time to time consistent with the requirements of the business carried on the dominant tenement, may impose (1) reasonable limitations on any other Owner's or any Permittee's use of an Easement providing for ingress and egress over the portions of the Retail Building described in this **Article III**, including establishing

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paths of ingress and egress and restrictions on hours of the day or days of the week during which any other Owner or Permittee may use such Easement, and (2) security controls consistent with such Owner's operation of its business on its portion of the Project; provided, however, that such limitations shall not (x) create a hazardous condition, (y) unreasonably limit emergency ingress and egress rights, or (z) adversely affect the principal benefits intended to be granted pursuant to this Agreement.

(F) Any disputes concerning the existence, location, nature and scope of any of the Easements granted or reserved under this **Article III** shall constitute Arbitrable Disputes.

(G) To the extent that Hotel Owner desires to use any of the Easements granted pursuant to **Section 3.2, Section 3.3, Section 3.4, Section 3.7, Section 3.8, Section 3.9, or Section 3.12** and except in the case of an Emergency Situation, Hotel Owner shall provide Retail Owner prior written or oral notice of such intended use which notice shall specify the manner in which the Easement will be used and the anticipated time period of such use. Retail Owner shall have the right, in its reasonable discretion, to consent to the time period and the manner in which such Easement will be used; provided, however, in no event shall Retail Owner restrict or limit Hotel Owner's use of such Easement in such a way that there would be a material adverse affect on the benefits intended to be granted by this Agreement.

3.2 Maintenance of Hotel Building. Retail Owner hereby grants to Hotel Owner a non-exclusive Easement in the Retail Property, subject to reasonable rules and regulations provided by Retail Owner to Hotel Owner from time to time, for ingress and egress for persons, materials and equipment over, on, across and through the Retail Property to the extent reasonably necessary to permit the Maintenance (if and when required or permitted under this Agreement and subject to the terms and provisions of this Agreement) of (A) the Hotel Building or any necessary Structural Supports for the Hotel Building, (B) the emergency exit stairway identified on pages 2 and 3 of the Survey as "Stairway Easement 2.13(B) and 3.2", (C) the first floor corridor and the second floor corridor located on the north side of the Hotel Building identified on pages 2 and 3 of the Survey as "Easement 2.13(A)", and (D) the first floor level corridor located on the north side of the Hotel Building west of the Retail Building identified on page 2 of the Survey as "Emergency Access Easement 2.13(C)".

3.3 Structural Support. Retail Owner hereby grants to Hotel Owner a non-exclusive Easement in all structural members, and other Structural Supports, if any, located in or constituting a part of the Retail Property for the support of (A) the Hotel Building, and (B) any Facilities or areas located in the Retail Property with respect to which Hotel Owner is granted an Easement.

3.4 Facilities. Retail Owner hereby grants to Hotel Owner (A) an exclusive Easement for the Maintenance and use of the Hotel Easement Facilities that serve the Hotel Property exclusively, subject to the rights of Retail Owner set forth in **Section 5.3** hereof, and (B) a non-exclusive Easement (i) for the use in common with Retail Owner for their intended purposes of any other Hotel Easement Facilities at any time located in the Retail Property and connected to Facilities located in the Hotel Property (and any replacements thereof) which provide or shall be necessary to provide the Hotel Building with any utilities or other services which may otherwise be necessary to the operation of the Hotel Building and (ii) permitting the exercise of the rights granted

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to Hotel Owner pursuant to **Section 5.3** hereof during any period in which said rights may be exercised.

3.5 Intentionally Deleted.

3.6 Sign. Retail Owner hereby grants to Hotel Owner an exclusive Easement for the erection, attachment and Maintenance of a sign identifying the Hotel Building and a flagpole. Except as otherwise approved by Retail Owner, any such sign shall be installed only at the location identified on **Exhibit G** and any such flagpole shall be installed only at the location identified on **Exhibit G**. Such sign must comply with all applicable Laws and shall conform to the design and size shown on **Exhibit G**. Hotel Owner shall pay for and obtain and maintain in effect all permits and licenses necessary to install and permit such sign and such flagpole on the Retail Building. Nothing contained in this **Section 3.6** shall prohibit Hotel Owner from relocating such sign or such flagpole to another location on the Exterior Bustle that is part of the Hotel Building.

3.7 Common Walls, Ceiling and Floors. Retail Owner hereby grants to Hotel Owner a non-exclusive Easement for support, enclosure, use and Maintenance with respect to those walls and horizontal slabs constructed in and along the common boundaries of the Hotel Parcel and the Retail Parcel which also serve as walls, ceilings or floors for the Hotel Building.

3.8 Utilities. Retail Owner hereby grants to Hotel Owner (and if requested by the applicable Utility Company, Retail Owner shall grant to such Utility Company) non-exclusive Easements for utility purposes, including the right to install, lay, maintain, repair and replace electrical conduit, wires and equipment, water mains and pipes, pipes for the drainage of storm water, sewer lines, gas mains, wires and equipment and cables for transmission of telephone, television or other optically and electrically transmitted information, sounds and communication in the Retail Property and are located (in whole or in part) within, or pass through or under, the Retail Building within the areas presently utilized for such Facilities. If, at any time, it shall become necessary to relocate or add to utility easements in locations within the Retail Property that differ from the present locations of such easements in order to provide utility service to the Hotel Property, Retail Owner agrees to grant such additional or relocated utility easements provided Hotel Owner pays all costs and expenses of such relocation or installation and such easements (A) do not unreasonably interfere with the reasonable use and enjoyment of the Retail Property, (B) adversely affect any Structural Supports or (C) materially increase the costs of operating the Retail Property. The Architect shall prepare, at Hotel Owner's cost and expense, appropriate drawings and descriptions of the locations within the Retail Property of such relocated or additional utility easements and Hotel Owner shall provide to Retail Owner copies of such drawings and descriptions. In addition, if requested by either party, the parties shall enter into and execute an amendment to this Agreement identifying the location of such relocated or additional utility easements.

3.9 Pipes and Conduit Maintenance. Retail Owner hereby grants to Hotel Owner a non-exclusive Easement for access to and over the portions of the Retail Parcel for purposes of Maintenance of the pipes and conduits connected to the boiler and the heat conversion units and for Maintenance of the pneumatic controls and compressors.

3.10 Encroachments. Retail Owner hereby grants to Hotel Owner an exclusive Easement permitting the existence of minor encroachments in the event that, by reason of the construction of the Project or the subsequent settlement or shifting of the Project, any part of the

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Hotel Building or Facilities serving exclusively the Hotel Building but not originally designed to be located within the Retail Parcel encroaches or shall hereafter encroach upon any of the Retail Parcel. No such encroachment shall be placed or enlarged deliberately.

3.11 Sidewalk Maintenance. Retail Owner hereby grants to Hotel Owner a non-exclusive Easement for access to and over the exterior portions of the Retail Parcel located at ground level for purposes of sidewalk and ground maintenance, installation and maintenance of planters, landscaping, snow removal and cleaning. This Easement is referred to as the "**Sidewalk Maintenance Easement**".

3.12 Easement to Permit Exercise of Cure Rights. In the event Hotel Owner exercises its rights under **Section 9.3(B)**, **Section 6.3(C)**, **Section 6.4(A)**, or **Section 5.4(A)**, Retail Owner hereby grants to Hotel Owner, for the benefit of the Hotel Property, a temporary, non-exclusive easement in the Retail Building for access, ingress and egress for Persons, materials and equipment over, on, across and through the Retail Building to the extent reasonably necessary and solely for Hotel Owner to exercise its rights under and pursuant to **Section 9.3(B)**, **Section 6.3(C)**, **Section 6.4(A)**, and **Section 5.4(A)**. The Easement described in this **Section 3.12** shall commence when Hotel Owner elects to exercise such rights and automatically shall terminate when Hotel Owner has cured such default.

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ARTICLE IV

STRUCTURAL SUPPORT

4.1 Structural Safety and Integrity. No Owner shall do or permit any act which would adversely affect the structural safety or integrity of the Project or any Building.

4.2 Reduction of Structural Support. If for any reason the structural support for any portion of any of the Buildings is reduced, the Architect shall review, at the request of any or all Owners, the extent of any such reduction and the need for or adequacy of any such substitute or additional structural support. The Architect shall also estimate, if possible, the time reasonably necessary to provide adequate substitute or additional structural support. If there is a dispute as to the correctness of the Architect's report or estimate such dispute shall be submitted to arbitration pursuant to **Article XI** hereof.

4.3 Construction of Additional Support. If substitute or additional structural support is required in a portion of any of the Buildings in which the structural support has been reduced, then the Owner or Owners responsible for such reduction, if the responsible Owner or Owners can be determined, shall commence the construction of such substitute or additional support within a reasonable time under the circumstances and subject to and in accordance with the provisions set forth in **Section 14.1**, and having commenced such construction shall proceed diligently to cause the completion of such construction in accordance with plans and specifications prepared by or approved by the Architect and approved by the Owners. The responsible Owner or Owners shall pay all costs and expenses, including the Architect's and any other professional fees, in connection with construction of the substitute or additional support. The Owners shall attempt in good faith to determine which Owner or Owners are responsible for such reduction. If the Owners are unable to so determine which Owner or Owners are responsible for such reduction, any Owner

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may submit such question to the Architect for its advice. If after receiving the Architect's advice the Owners cannot agree on the sharing of responsibility for such reduction, then such determination shall be made by arbitration pursuant to **Article XI** hereof.

4.4 Cure. In the event that the Owner or Owners responsible for the reduction of any structural support fails to commence the construction of substitute or additional support within the reasonable time under the circumstances, or having commenced such construction fails to proceed diligently to its completion, any Creditor Owner shall have the right to complete the construction of such substitute or additional support at the expense of the Defaulting Owner, and all costs and expenses incurred by Creditor Owner shall be due from the Defaulting Owner on demand.

4.5 Sharing of Costs. If delay in constructing substitute or additional support would endanger the structural safety or integrity of any of the Buildings, then the Owner of the portion of the Building in which the reduction occurred or is occurring shall, upon not less than ten (10) days advance written notice to the other Owners (except that such advance written notice shall not be required in an Emergency Situation), provide substitute or additional structural support as and wherever required, or the Owners shall jointly undertake to provide substitute or additional structural support; provided, however, the responsible Owner shall be liable for and pay all costs and expenses incurred as a result of any other Owner's provision of any required substitute or additional support. If the responsible Owner(s) cannot be determined, or if all Owners are responsible, or if the reduction in structural support results from a defect in the original construction of any of the Buildings, or an act of a third party, or an act of God or a force majeure event described in **Article XII** hereof, then the Owners shall share the cost of providing substitute or additional structural support, including any fees of the Architect, in the manner agreed to by the Owners. If the Owners cannot agree, the Owners shall request the advice of the Architect. If after receiving the Architect's advice the Owners cannot agree on the sharing of such costs, then such determination shall be made by arbitration pursuant to **Article XI**. The Owners agree that one factor that the Architect and the arbitrator shall consider in determining the allocation of such costs is the respective values of the Parcels. In the event of a conflict between the provisions of this **Article IV** and the provisions of **Article IX**, the provisions of **Article IX** shall control.

4.6 Third Party Obligations. Nothing contained in this **Article IV** shall be deemed to limit any rights of any of the Owners against any other Persons or grant to other Persons any rights against Owners with respect to matters covered by this Article.

ARTICLE V

SERVICES TO RETAIL OWNER AND TO HOTEL OWNER

5.1 Services to Retail Owner.

(A) (i) From and after the date hereof, Hotel Owner shall perform (or cause to be performed) (a) the Maintenance of the sidewalk and landscaping (including, but not limited to, snow removal) on all portions of the frontage of the Project, (b) the cleaning of the sidewalk and landscaping (including, but not limited to, snow removal) on all portions of the frontage of the Project, and (c) the installation, removal, and Maintenance of the seasonal decorations and landscaping, and lighting of all portions of Project that front on Michigan Avenue and that front on

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Ohio Street. Hotel Owner shall provide Retail Owner with a quarterly invoice of Hotel Owner's direct costs and expenses actually paid in connection with the foregoing. Within 30 days following receipt of such invoice and such supporting evidence as Retail Owner may reasonably require, Retail Owner shall pay Hotel Owner 42.3% of such expenditures.

(ii) In addition, if a final non-appealable order of a court of competent jurisdiction awards any monies to any Person on account of injury to such Person on the Michigan Avenue sidewalk adjoining the Project or the Ohio Street sidewalk adjoining the Project or the insurance company or group of companies issuing the policy required under **Section 8.1(B)** hereof settles such a claim prior to a trial, Retail Owner hereby agrees to pay Hotel Owner within 30 days following receipt of an invoice and such supporting evidence as Retail Owner may reasonably require, 42.3% of the deductible under the insurance policy required to be carried by Hotel Owner pursuant to **Section 8.1(B)** provided such insurance policy complies with the other requirements of **Article VIII** and provided the Retail Owner's share of such deductible does not exceed \$21,150 (in 2000 Equivalent Dollars) (a "Deductible Payment"). Notwithstanding anything to the contrary in this **Section 5.1(A)**, in no event shall Retail Owner have any obligation to make in excess of three (3) Deductible Payments in any calendar year.

(B) From and after the date hereof, Hotel Owner shall perform (or cause to be performed) the Maintenance and cleaning of and adequate security for the Loading Area, the trash area described in Section 2.10, the service elevators described in Section 2.11, and ground level corridor described in Section 2.13. Retail Owner shall pay to or as directed by Hotel Owner an amount equal to the Loading Area Maintenance Payment on the last business day of January, the last business day of April, the last business day of July, and the last business day of October during each year of the Term to compensate Hotel Owner for a portion of the costs and expenses for such Maintenance and cleaning.

(C) From and after the date hereof, Hotel Owner shall perform (or cause to be performed) the Maintenance and cleaning of (i) the boiler, the pipes and conduits that lead from the boiler through the point such pipes and conduits connect to the heat conversion units contained in the Retail Building, (ii) the compressors, and (iii) the pneumatic controls for the boiler and the heat conversion units. Hotel Owner shall provide Retail Owner with a quarterly invoice of Hotel Owner's direct costs and expenses actually paid in connection with such Maintenance and cleaning. Within 30 days following receipt of such invoice and such supporting evidence as Retail Owner may reasonably require, Retail Owner shall pay Hotel Owner 4.8% of such expenditures.

(D) From and after the date hereof, Hotel Owner shall (i) maintain the attachment of the Retail Building area fire alarm system devices to the Hotel Building annunciator, fire alarm panel and fire pump; (ii) maintain the fire protection water and the electrical hook-ups to the Retail Building and Hotel Building fire alarm systems; and (iii) perform (or cause to be performed) the Maintenance of the fire alarm system and fire pump. From time to time (but not more often than quarterly) Hotel Owner shall provide Retail Owner with an invoice of Hotel Owner's direct costs and expenses actually paid in connection with the services described in this **Section 5.1(D)**. Within 30 days following receipt of such invoice and such supporting evidence as Retail Owner may reasonably require, Retail Owner shall pay Hotel Owner 4.8% of such expenditures.

(E) In consideration of Hotel Owner's providing the foregoing services to Retail Owner, Retail Owner hereby agrees to pay to or as directed by Hotel Owner an amount equal to the

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Administrative Fee on the last business day of January, the last business day of April, the last business day of July, and the last business day of October during each year of the Term to compensate Hotel Owner.

5.2 Services to Hotel Owner. (A) From and after the date hereof, Retail Owner shall perform (or cause to be performed) the Maintenance and cleaning of the Exterior Bustle. Retail Owner shall provide Hotel Owner with a quarterly invoice of Retail Owner's direct costs and expenses actually paid in connection with such Maintenance and cleaning. Within 30 days following receipt of such invoice and such supporting evidence as Hotel Owner may reasonably require, Hotel Owner shall pay Retail Owner (i) 3% of all of the expenditures associated with the cleaning and Maintenance of the exterior portions of the windows located in the Exterior Bustle and (ii) 65% of all of the expenditures associated with the cleaning and Maintenance of the Exterior Bustle other than the exterior portions of the windows located in the Exterior Bustle. Notwithstanding anything to the contrary in this Section 5.2 Hotel Owner shall have no obligation to reimburse Retail Owner for any expenditures made pursuant to this Section 5.2 that under generally accepted accounting principles consistently applied would be considered capital expenditures, unless Hotel Owner has given its prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed) to such expenditures. If Hotel Owner does not consent to such expenditure, such disagreement will constitute an Arbitrable Dispute which may be submitted to arbitration pursuant to **Article XI** if not resolved within ten (10) days after the dispute arises and to the extent that such disagreement is submitted to arbitration, Retail Owner shall be excused from performance of such Maintenance until the completion of such arbitration.

(B) On or before December 31, 2001 (as such date may be extended as a result of an Unavoidable Delay), Retail Owner, at its sole cost and expense, shall install, on eastern portion of the south side of the Exterior Bustle, a facade that matches the facade that is currently located on the east side of the Exterior Bustle and that is generally depicted on **Exhibit I** attached hereto and made a part hereof.

(C) Within two hundred seventy (270) days after the completion of the Atrium (as defined in the Exit Easement Agreement), as such date may be extended as a result of an Unavoidable Delay, Retail Owner, at its sole cost and expense, shall (i) remove the exterior stairway located on Michigan Avenue near the south boundary of the Project and identified on page 1 of the Survey as "Marble Clad Concrete Stairway" and "Frame & Metal Overhang" or cause such exterior stairway to be removed, (ii) repair and replace the sidewalk located under such exterior stairway such that it is level with sidewalk that is then installed along Michigan Avenue, and (iii) repair and replace the sidewalk that is located along Grand Avenue in accordance with all applicable Laws.

5.3 Obligation to Furnish Services. Each Owner shall use commercially reasonable efforts to operate its Facilities and furnish all services as required under this **Article V** in accordance with the North Michigan Avenue Standard and in a manner which will provide the other Owner with comfortable occupancy and enjoyment of its portion of the Project for its intended use as retail property or hotel property, as applicable. Each Owner shall use reasonable diligence in performing the services required it as set forth in this **Article V** but shall not be liable under this **Article V** for interruption or inadequacy of service or loss or damage to property or personal injury (including death) arising out of such interruption or inadequacy provided such Owner is using commercially reasonable efforts to perform such services. Each Owner reserves the right to curtail

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or halt the performance of any service hereunder at any time in reasonable respects and for a reasonable period of time to perform Maintenance or in an Emergency Situation.

5.4 Failure to Perform Services. (A) If either Owner shall fail to perform as required by the terms and conditions of **Article V** of this Agreement (except when such failure is caused by the other Owner, an event described in **Article XII** hereof or the other Owner is entitled to discontinue such service pursuant to **Section 5.5** hereof) and such failure shall continue for a period of ten (10) days after written notice thereof to the Defaulting Owner from the Creditor Owner, the Creditor Owner shall have the right to perform the same until such time as the Defaulting Owner cures its failure to perform. Such failure shall not entitle an Owner to exclude the Defaulting Owner from the right to use the Easement areas involved. Such notice shall not be required in an Emergency Situation. During any period in which the Creditor Owner is performing pursuant to this **Section 5.4**, the Defaulting Owner shall make payments to the Creditor Owner to reimburse Creditor Owner for its reasonable costs in curing such failure to the extent the Defaulting Owner is liable for such costs as set forth in **Section 5.1** or **Section 5.2**.

(B) If a dispute exists as to whether the Defaulting Owner has failed to perform then such dispute will constitute an Arbitrable Dispute which will be submitted to arbitration pursuant to **Article XI** if not resolved within ten (10) days after the dispute arises.

5.5 Failure to Pay for Services. If at any time an Owner fails to pay to the other Owner any sum of money payable to the other Owner pursuant to the provisions of **Article V** hereof, including, without limitation **Section 5.4**, or pursuant to the provisions of **Section 4.5** within thirty (30) days after receipt of written notice from the Creditor Owner demanding payment of said sum of money, then (A) the Creditor Owner may after five (5) days written notice discontinue furnishing services for which payment has not been received until said sum of money is paid; provided, however, that if the Defaulting Owner in good faith disputes the Defaulting Owner's obligation to pay said sum of money (other than an objection to allocation as hereinafter described in **Section 5.6** of this Agreement) and demands arbitration as provided in **Article XI** to determine the respective rights of the parties to such dispute, then the Creditor Owner may not discontinue furnishing any such services unless and until it shall finally be determined by arbitration in accordance with **Article XI** hereof or a final non-appealable order of a court of competent jurisdiction that the Defaulting Owner is obligated to pay said sum of money and thereafter said sum of money remains unpaid for thirty (30) days and further provided, however, that the Creditor Owner may not discontinue any such services if such discontinuance would cause an Emergency Situation or hinder steps to remedy an existing Emergency Situation and (B) the Defaulting Owner shall be obligated to pay any and all amounts due under **Section 10.4**.

5.6 Dispute in Cost Allocation. If any Owner in good faith believes that the cost of an item of Maintenance under this **Article V** is not reasonably allocated between the Owners, then such Owner desiring to reallocate costs may, propose in writing a reallocation of such costs, setting forth the factual basis for the proposed reallocation. The Owners shall negotiate in good faith to achieve an equitable allocation of such costs and if agreement cannot be reached with respect thereto within sixty (60) days of an Owner's notice, then any Owner may submit the issue of reallocation to arbitration under **Article XI**.

5.7 Replacement of Facilities. An Owner obligated to perform Maintenance of Facilities may (A) in replacing Facilities, replace such Facilities with Facilities substantially

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equivalent or better, providing substantially the same quality of service or better or (B) with respect to obsolete Facilities which exclusively service such Owner's Parcel, remove such obsolete Facilities without replacement.

5.8 Inspection of Books. Each Owner shall have the right at reasonable times to examine the books and records of the other Owner solely as they relate and pertain to the furnishing of services and the costs and expenses incurred in connection with such Owner's obligations under **Article V** and **Article IV**. Nothing contained in this **Section 5.8** shall permit any Owner to examine any books and records that are proprietary in nature that do not relate to the costs and expenses incurred in connection with such Owner's obligations under **Article V** and **Article IV**. Each Owner shall treat such books and records as confidential and shall not divulge the contents thereof to third parties except in the event of litigation where such matters are material and except to the extent required by Law.

5.9 Separate Utility Meters; Utility Costs. (A) Retail Owner and Hotel Owner acknowledge that (i) separate electricity meters are installed for each of the Hotel Building and Retail Building and (ii) a gas meter for the Hotel Building has been installed. Retail Owner and Hotel Owner further acknowledge that, except to the extent described in **Section 5.9(B)**, neither the Retail Building nor the Retail Easement Facilities use any gas.

(B) Hotel Owner hereby agrees that it shall use commercially reasonable efforts to install a separate gas meter to measure the gas usage by the boiler that serves the Hotel Building and the Retail Building (the "**Boiler Meter**"). The costs and expenses associated with the installation of such Boiler Meter shall be borne equally by the Owners. From and after the time that the Boiler Meter is installed, Retail Owner shall pay Hotel Owner 4.8% of the total costs charged to Hotel Owner by the entity providing the gas to the boiler within 30 days following receipt of an invoice from Hotel Owner together with a copy of the utility bill provided by the gas provider. Until such time as the Boiler Meter is installed, Hotel Owner shall be obligated to pay the costs associated with the gas usage by the boiler that serves the Retail Building and the Hotel Building; provided, however, after the Boiler Meter is installed, Retail Owner, within 30 days following receipt of an invoice from Hotel Owner together with a copy of the utility bill provided by the gas provider, shall reimburse Hotel Owner for a portion of the costs attributable to the gas used by the boiler (based on the usage shown on the Boiler Meter) equal to the product of (i) the actual costs for the gas consumed by such boiler (based on the usage shown on the Boiler Meter) for the initial gas provider billing cycle commencing after the Boiler Meter is installed multiplied by 4.8% and (ii) a fraction, the numerator of which is the number of days between the date hereof and the date on which the Boiler Meter was installed and the denominator of which is the number of days in the initial gas provider billing cycle.

(C) Retail Owner hereby agrees to pay Hotel Owner 2.4% of the total costs charged to Hotel Owner by the utility that provides water and sewer to the Project within 30 days following receipt of an invoice from Hotel Owner together with a copy of the utility bill provided by the water and sewer provider. If, at any time during the Term, the water that is used by the Retail Property can be and is separately metered from the water that is used by the Hotel Property, such separate meter shall be installed, the cost of the installation shall be borne equally by the Owners, and, from and after such date, (i) Retail Owner and Hotel Owner shall each pay the entity providing water directly for the charges assessed against its Parcel for water, (ii) Retail Owner shall have no further obligation to pay Hotel Owner any portion of the total charges for providing water to the

Project and (iii) Retail Owner shall continue to pay Hotel Owner 2.4% of the total costs charged to Hotel Owner by the utility that provides sewer to the Project.

(D) (i) Retail Owner and Hotel Owner acknowledge that chilled water provided to the Retail Building (other than the portion of the Retail Parcel identified on page 2 of the Survey identified as "B-4" and "B-5") will be supplied from a separate facility than the chilled water that is provided to the Hotel Building. Until such time as the chilled water supplied to the Retail Building is supplied from a separate facility than the chilled water that is provided to the Hotel Building, Retail Owner shall pay Hotel Owner 4.8% of the total costs charged to Hotel Owner to provide the chilled water within 30 days following receipt of an invoice from Hotel Owner together with reasonable supporting documentation. From and after the date the chilled water provided to the Retail Building (other than the portion of the Retail Parcel identified on page 2 of the Survey identified as "B-4" and "B-5") is supplied from a separate facility than the chilled water supplied to the Hotel Building, (ii) Retail Owner and Hotel Owner shall each pay the entity providing chilled water directly for the charges assessed against its Parcel for chilled water, (ii) Retail Owner shall pay to Hotel Owner an amount equal to \$375.00 (in 2000 Equivalent Dollars) on the last business day of January, the last business day of April, the last business day of July, and the last business day of October for the chilled water used by the portion of the Retail Parcel identified on Page 2 of the Survey as "B-4" and "B-5", and (iii) except as set forth in (ii) above, Retail Owner shall have no further obligation to pay Hotel Owner any portion of the total charges for providing chilled water to the Project.

(E) Except to the extent set forth in Sections 5.9(A), 5.9(B), 5.9(C), and 5.9(D), where the allocation of the costs of a service under Article V is based on usage recorded by meters, and if at any time the actual allocation of cost of service based on an Owner's usage recorded by meters cannot be determined because the meters or system for recording metered information are not installed or operative, then for such period when the usage data from meters is unavailable, the Owner performing such service shall make such reasonable determination of costs based on usage, using such experts or systems as such Owner may consider helpful to achieve an estimate of usage. Such Owner shall notify the other Owner in detail of its determination of estimated usage and the method for such determination. If, within thirty (30) days after receipt of any such notice, the Owner receiving such notice does not, in good faith, dispute that estimated usage has been determined reasonably, such determination of usage shall be final and conclusive upon the parties with respect to such period; provided further, however, if the Owner receiving such notice, in good faith, disputes that the estimated usage has been determined reasonably, such Owner shall so notify the other Owner. If the Owners fail to agree concerning the method of estimating usage for such period within thirty (30) days after receipt of the disputing Owner's notice, then either Owner may submit the question to the Architect for its advice. The Architect shall advise the Owners concerning the resolution of the question within a reasonable period of time after the dispute has been submitted to the Architect. If either Owner does not accept the Architect's decision, such failure will constitute an Arbitrable Dispute which may be submitted to arbitration pursuant to Article XI if not resolved within ten (10) days after the dispute arises.

ARTICLE VI

INDEMNIFICATION; LIENS; COMPLIANCE WITH LAWS; USE RESTRICTIONS

6.1 Indemnity by Owners. (A) Subject to the waiver of claims in **Section 8.6**, each Owner (hereinafter in this **Section 6.1**, the "**Indemnifying Owner**") covenants and agrees, at its sole cost and expense, to indemnify and hold harmless the other Owner, its members, partners and agents, and their respective officers, directors and employees (hereinafter in this **Section 6.1**, each an "**Indemnitee**") from and against any and all claims against any Indemnitee for losses, liabilities, damages, judgments, costs and expenses and any actions or proceedings arising therefrom, by or on behalf of any person, firm, corporation or governmental authority, other than such Indemnitee, (i) arising from the use, possession or management by the Indemnifying Owner, its members, partners, agents, and Permittees and the respective officers, directors and employees of any of them (each a "**Responsible Party**") of the Indemnifying Owner's portion of the Project or Project Site or activities therein, (ii) arising out of the use, exercise or enjoyment by a Responsible Party of an Easement or Facility or the exercise by any Owner of its rights under **Section 2.15**, or (iii) arising out of the Indemnifying Owner's violation of or default under the Exit Easement Agreement or as a result of matters occurring on or within the Indemnifying Owner's Parcel or exclusive easement areas (not caused by the Indemnitee), and from and against all costs, attorneys' fees, expenses and liabilities incurred with respect to any such claim, action or proceeding arising therefrom.

(B) An Indemnifying Owner's obligation to the other party pursuant to this **Section 6.1** shall be limited to the extent that the following actions or inactions materially prejudice the Indemnifying Party's defense of a claim: (i) the Indemnitee failed to notify the Indemnifying Owner in writing, with a reasonable period of time after it becomes aware of the occurrence of any fact, circumstance, condition or occurrence that is reasonably likely to give rise to a matter falling within the scope of an indemnity under this **Section 6.1**; and (ii) the Indemnitee not taking (or failing to take) any steps (such as an admission of liability in any form) that would materially and adversely affect the Indemnifying Owner's defense of such claim or its obtaining coverage for the claim under any applicable insurance policies or that might otherwise prevent the Indemnifying Owner from protecting itself and any other Indemnitees. The Indemnifying Owner shall have the right, in its sole discretion, to conduct and control the defense of any matter for which it is providing indemnification by counsel it selects, which counsel shall be subject to the reasonable approval of the applicable Indemnitee. The Indemnitee shall cooperate fully in the defense of the claim and shall provide access to all information, documents, and witnesses pertinent to the claim that are under its control. The Indemnifying Owner shall have the right, in its sole discretion, to compromise, settle, or otherwise dispose of any claim for which it has accepted and is providing indemnification pursuant to this **Section 6.1**; provided that (x) said settlement does not obligate the Indemnitee to do or refrain from doing anything other than making a lump-sum monetary payment to the plaintiffs (which payment shall be made on behalf of the Indemnitee by, and at the sole cost and expense of, the Indemnifying Owner), and entering into a mutual release with plaintiffs, which instrument shall be subject to the Indemnitee's review and approval and shall not require the Indemnitee to make any admission of wrongdoing or fault or be subject to any criminal sanctions or fines, (y) such settlement will not be a matter of public record and the fact of such settlement will not tend to prejudice the conduct of other matters in which the Indemnitee is or may be a defendant and (z) the Indemnifying Owner provides the Indemnitee with evidence, satisfactory to the Indemnitee that the Indemnifying Owner possesses sufficient funds to fully pay for any such settlement; provided, however, that the Indemnitee shall be informed of all settlement offers and be given a reasonable opportunity to comment on the same. Any counsel for the insurance company providing insurance against such claim, action or proceeding shall be presumed reasonably satisfactory to Indemnitee. Notwithstanding the foregoing, if the Indemnifying Owner elects not to conduct and control the

defense of any matter for which it is providing indemnification, the Indemnitee shall have the right to conduct and control the defense of such matter by counsel it selects without obtaining the consent of the Indemnifying Party and in such event (a) the Indemnifying Party shall cooperate fully in the defense of the claim and shall provide access to all information, documents, and witnesses pertinent to the claim that are under its control and (b) the Indemnitee shall have the right, in its sole discretion, to compromise, settle, or otherwise dispose of any such claim.

6.2 Liens. Each Owner shall remove, within thirty (30) days after the filing thereof, any mechanics', materialmen's or any other like lien on the other Owner's respective portions of the Project or Project Site, or on its portion of the Project or Project Site if the existence or foreclosure of such lien on its portion of the Project or Project Site would adversely affect any Easement created hereunder or services to be furnished pursuant to **Article V** hereof, arising by reason of its act or omission or any work or materials which it had ordered. The Defaulting Owner shall not be required to remove such lien within thirty (30) days after its filing if (A) such lien cannot be foreclosed or (B) within said thirty (30) day period, the Defaulting Owner (i) shall in good faith diligently proceed to contest the same by appropriate proceedings and shall give written notice to the Creditor Owner of its intention to contest the validity or amount of such lien, and (ii) shall deliver to the Creditor Owner either: (a) cash, letter of credit from a financial institution acceptable to the Creditor Owner or a surety bond from a responsible surety company acceptable to the Creditor Owner in an amount equal to one hundred twenty five percent (125%) of the lien claim and all interest and penalties then accrued thereon or such greater amount as may reasonably be required to assure payment in full of the amount claimed plus all penalties, interest and costs which may thereafter accrue by reason of such lien claim, or (b) other security reasonably acceptable to the Creditor Owner. The Owners agree that title insurance from a title insurance company selected by the Creditor Owner insuring against any such liens shall be acceptable security under this Agreement. In the event the Defaulting Owner fails to remove any such lien or to otherwise comply with the provisions of this **Section 6.2** within such thirty (30) day period, the Creditor Owner may upon ten (10) days written notice take such action as the Creditor Owner may deem necessary to remove such lien. In such case, the Creditor Owner shall be entitled to reimbursement from the Defaulting Owner for all costs and expenses (including reasonably attorneys' fees and expenses actually incurred) incurred by the Creditor Owner in defending against, removing or attempting to remove or defend against such lien.

6.3 Compliance With Laws and Exit Easement Agreement. (A) Each Owner shall comply with all Laws and all Environmental Laws, if noncompliance by it with respect to its portion of the Project Site or any part thereof would subject the other Owner to civil or criminal liability, or would jeopardize the full force or effect of any governmental permits, licenses or permissions including but not limited to any certificate of occupancy issued to the other Owner or its Permittees or for any portion of the Project itself or would jeopardize the other Owner's or its Permittees' insurance or right to occupy or utilize beneficially its respective portion of the Project or any part thereof, or would result in the imposition of a lien or penalty against any of the property of the other Owner or its Permittees.

(B) The Retail Owner and the Hotel Owner each agree that they will not cause or permit any default to occur under the Exit Easement Agreement as a result of such Owner's acts or omissions or as a result of matters or occurrences within or relating to such Owner's Parcel. Each Owner shall use its Parcel in a manner which complies with the Exit Easement Agreement. Each Owner shall promptly notify the other Owner upon becoming aware of the existence of default under

the Exit Easement Agreement and shall deliver to the other Owner copies of all notices of default from the other parties to the Exit Easement Agreement. No Owner shall seek to amend, modify, or terminate the Exit Easement Agreement without the prior written consent of all Owners and their Mortgagees.

(C) (i) If Hotel Owner shall fail to comply with the provisions of this **Section 6.3** (except when such failure is caused by Retail Owner or an event described in **Article XII** hereof) and if Hotel Owner shall not diligently commence to cure such failure within 15 days after written notice thereof to Hotel Owner from Retail Owner (except in an Emergency Situation when no such notice is necessary), Retail Owner shall have the right to take such actions as shall be necessary for the Hotel Property and Hotel Owner, as applicable, to comply with the terms of this **Section 6.3** until such time as Hotel Owner cures its failure to perform. Hotel Owner shall reimburse Retail Owner for its reasonable costs in curing such failure.

(ii) If Retail Owner shall fail to comply with the provisions of this **Section 6.3** (except when such failure is caused by Hotel Owner or an event described in **Article XII** hereof) and if Retail Owner shall not diligently commence to cure such failure within 15 days after written notice thereof to Retail Owner from Hotel Owner (except in an Emergency Situation when no such notice is necessary), Hotel Owner shall have the right to take such actions as shall be necessary for the Retail Property and Retail Owner, as applicable, to comply with the terms of this **Section 6.3** until such time as Retail Owner cures its failure to perform. Retail Owner shall reimburse Hotel Owner for its reasonable costs in curing such failure.

6.4 Zoning.

(A) (i) Without limiting the provisions of **Section 6.3**, no Owner shall make any Alterations or allow any use of their respective portions of the Project or take or fail to take any action which would (a) violate the provisions of the PUD, as said provisions may be amended from time to time or any other applicable zoning or land use Laws, (b) prohibit the Hotel Property from being operated as a hotel, or (c) prohibit the Retail Property from being operated as a retail facility.

(ii) If an Owner shall fail to comply with the provisions of this **Section 6.4(A)** (except when such failure is caused by the other Owner or an event described in **Article XII** hereof) and if such Defaulting Owner shall not diligently commence to cure such failure within 15 days after written notice thereof to the Defaulting Owner from the Creditor Owner (except in an Emergency Situation when no such notice is necessary), the Creditor Owner shall have the right to take such actions as shall be necessary for the Defaulting Owner's Property and the Defaulting Owner, as applicable, to comply with the terms of this **Section 6.4(A)** until such time as the Defaulting Owner cures its failure to perform. The Defaulting Owner shall reimburse the Creditor Owner for its reasonable costs in curing such failure.

(B) The Hotel Parcel and Retail Parcel are now and shall continue to be combined and treated as one zoning lot for the purposes of complying with the PUD.

(C) The Owners agree that the gross floor area (as determined in accordance with the PUD) of the improvements which may at any time be constructed on the (A) Retail Parcel shall not exceed 46,189 square feet (excluding the below grade storage area) and (2) the Hotel Parcel shall not exceed the balance of the square feet permitted for the Project Site in accordance with the PUD.

(D) Applications for variations in the application of the provisions of the PUD applicable to the Project Site which conform to the restrictions contained in **Section 6.4(C)** above and do not change the permitted uses under the PUD or adversely affect another Owner may be filed and processed solely by the Owner of the portion of the Project directly affected by such application and shall not require the joinder of the other Owner, provided, however, such Owner shall provide the other Owner with a copy of all such applications. All other applications for variations in the application of the provisions of the PUD applicable to the Project Site shall require the joinder and approval of the other Owner and its Mortgagee, which approval shall not be unreasonably withheld or delayed. The costs and expenses of any such application shall be paid by the Owner filing the application.

(E) Each Owner shall execute such applications or other instruments as may be necessary to obtain any zoning variation or amendment conforming with the provisions of this **Section 6.4**; provided, however, the Owner requesting such zoning variation or amendment shall indemnify and hold harmless the other Owner from and against any loss, liability, claims, judgments, costs and expenses arising out of the other Owner's execution of such applications or instruments.

(F) Retail Owner and Hotel Owner hereby agree to use commercially reasonable efforts (i) to secure one (1) additional parking space from the Garage Owner (as such term is defined in that certain Block 119 Parking Easement Agreement (in favor of Block 121 Hotel/Retail) dated as of August 1, 1998 between Retail Owner and KN 120 Company, L.L.C. recorded on August 31, 1998 as Document Number 98774492 (the "**Parking Easement Agreement**")) and (ii) thereafter to each enter into a separate parking easement agreement with Garage Owner, in form and substance substantially similar to the form and substance of the Parking Easement Agreement and acceptable to each of their Mortgagees, pursuant to which the Retail Parcel shall be granted an easement for the use of five (5) parking spaces and the Hotel Parcel shall be granted an easement for the use of two hundred ninety four (294) parking spaces (at which time Retail Owner and Hotel Owner will consent to a termination of the Parking Easement Agreement). In no event shall either Owner enter into an agreement with the Garage Owner described in subsection (ii) above unless both Hotel Owner and Retail Owner enter into an agreement with Garage Owner. Retail Owner and Hotel Owner each hereby agree not to take any actions and not to amend either the Parking Easement Agreement, any agreement executed pursuant to subsection (ii) above, or any other agreements executed with the Garage Owner in any manner that would adversely affect the zoning of the Project or the zoning of either the Retail Building or the Hotel Building.

6.5 Use Restrictions. (A) Neither Owner shall use or permit its respective Building to be used for any of the purposes listed on attached **Exhibit H**.

(B) The Hotel Parcel shall be used solely for the operation of a business consistent with the PUD and the North Michigan Avenue Standard and for accessory uses. Nothing contained in this **Section 6.5** or elsewhere in this Agreement shall obligate Hotel Owner to operate a hotel business or any other business in the Hotel Parcel.

(C) The Retail Parcel shall be used solely for the operation of a business consistent with the PUD and the North Michigan Avenue Standard and for accessory uses. Nothing contained in this **Section 6.5** or elsewhere in this Agreement shall obligate Retail Owner to operate a retail business or any other business in the Retail Parcel.

6.6 Subdivision of a Parcel. (A) Retail Owner shall not, and shall not permit, the Retail Parcel to be subdivided into more than two legal parcels while this Agreement remains in effect, without the consent of the Hotel Owner and its Mortgagee, which consent may be withheld in the sole discretion of the Hotel Owner or its Mortgagee. Nothing contained in this Section 6.6(A) shall prohibit Retail Owner from (i) subdividing the Retail Parcel into two legal parcels or (ii) entering into lease, licenses, or other similar occupancy agreements for less than all of its Parcel.

(B) Hotel Owner shall have the right to subdivide the Hotel Parcel into more than one legal parcel without the consent of the Retail Owner.

(C) If either the Retail Parcel or the Hotel Parcel will be legally subdivided at any time, the other Owner may request changes to this Agreement that may be necessary to reflect the original intent of the Owners at the time this Agreement was executed in light of the fact that one of the Parcels has been legally subdivided, which changes shall be subject to the reasonable approval of the other Owner.

ARTICLE VII

REAL ESTATE TAXES

7.1 Separate Assessment. Retail Owner and Hotel Owner will jointly petition the Assessor of Cook County, Illinois (the "Assessor"), as soon as is practicable, to assess and tax separately the Hotel Property and the Retail Property for first calendar year in which the Assessor will accept such tax division (i.e. either 2000 or 2001 (payable in 2001 or 2002)) and for all subsequent years. The Owners shall cooperate with each other and make good faith efforts so that the Hotel Property and the Retail Property shall, when possible, be assessed separately by the Assessor and taxed as separate parcels of real estate. The Owners shall diligently prosecute such petition for separate assessment and taxation. If at any time there is a separate assessed valuation but not a separate tax bill for one or more parcels comprising the Project Site and the air space above and below the Project Site, real estate taxes shall be allocated between the parcels based on the ratio of the assessed valuation for such parcel or parcels to the aggregate values of all of the parcels comprising the Project Site and the air space above and below the Project Site. Hotel Owner shall pay the real estate taxes attributable to the Hotel Property and Retail Owner shall pay the real estate taxes attributable to the Retail Property.

7.2 Failure to Pay Taxes. If an Owner shall fail to pay any tax or other charge, or share thereof, which is due and which such Owner is obligated to pay pursuant to this Article VII, and if such unpaid tax or charge is a lien or encumbrance on any portion of the Project or Project Site owned by the other Owner, or any Easement benefitting any such other Owner and if any lawful authority would thereafter have the right to sell or otherwise foreclose against the portion of the Project or Project Site owned by such other Owner or extinguish any Easement benefitting such other Owner by reason of such nonpayment, then the Creditor Owner, after ten (10) days written notice to the Defaulting Owner, may pay such tax or charge, or share thereof, together with any interest and penalties thereon, and the Defaulting Owner, upon demand, shall reimburse the Creditor Owner for the amount of such payment, including the amount of any interest or penalty amounts that accrued thereon plus interest thereon calculated in accordance with the provisions of Section 10.4.

7.3 No Separate Bill or Assessment. If for calendar year 2000 (payable in 2001) or for any subsequent year, there is not a separate assessed valuation or separate tax bill for the Hotel Property and the Retail Property, real estate taxes for such calendar year shall be calculated and allocated as follows: (y) the Appraised Value Percentage applicable to the Hotel Property shall be allocated to the Hotel Property and (z) the Appraised Value Percentage applicable to the Retail Property shall be allocated to the Retail Property.

(A) (i) For any calendar year that there is not a separate assessed valuation or separate tax bill for the Hotel Property and the Retail Property, the Owners, on or before September 30 of such year, shall jointly select one of the Pre-Selected Appraisers or, if agreed to by both Owners, another entity experienced in the valuation of mixed use projects similar to the Project to serve under and pursuant to the terms and provisions of this Section 7.3 (the "Appraiser") and provide written notice of such selection to any Mortgagees. If a Mortgagee objects to such selection in writing within fifteen days after its receipt of notice, the Owners shall select a new Appraiser subject to each Mortgagee's approval. An Appraiser shall be deemed appointed if all Mortgagees consent or fail to object to such appointment within fifteen days of receipt of notice of the Owners' selection. If the Owners are unable to agree upon the selection of an Appraiser, then the selection of an appraiser from the Pre-Selected Appraisers shall be made by arbitration pursuant to Article XI hereof based upon the arbitrator's best judgment as to which of the Pre-Selected Appraisers will provide the necessary appraisal at the best price. The Appraiser, upon its appointment, shall execute an agreement with the Owners in a form mutually agreeable to the Owners pursuant to which the Appraiser agrees to provide the services required under this Section 7.3. Each Owner shall pay one-half (1/2) of all of the Appraiser's fees for the services required under this Section 7.3. If any Owner shall fail to pay its share of any such fees or expenses within ten (10) days after receipt of an invoice therefor from the Appraiser, then any other Owner may pay the same and the Owner failing to pay shall, within ten (10) days after written demand for reimbursement, reimburse the other Owner for any such payment.

(ii) Within forty-five (45) days of the Appraiser's appointment, the Appraiser shall provide the Owners with an appraised value of the Hotel Parcel, the Retail Parcel, and the Project. The Appraiser shall use, to the extent possible, a method of appraisal that best approximates the methods used by the Cook County Assessor. Such appraisal shall be binding on the Owners as to the allocation of the real estate taxes for such calendar year.

(B) Each Owner shall provide the other with copies of all assessment notices and tax bills which are applicable to the Project. Retail Owner shall deliver to Hotel Owner within fifteen (15) days prior to the due date for each such tax payment a cashier's or certified check payable to the Cook County Collector for its share of such taxes and Hotel Owner shall acknowledge receipt of such tax payment in writing. Hotel Owner shall forward such check and its own cashier's or certified check with the tax bills to the Cook County Collector prior to the date such taxes become delinquent. If Hotel Owner attempts to reduce the assessment for the total Project or takes other action to reduce taxes on the total Project prior to the separate assessment of the Parcels, Retail Owner shall cooperate in such attempt and each Owner shall share in the costs incurred in connection therewith in proportion to its share of the real estate taxes to the extent of the refund or reduction received or as otherwise agreed to by Retail Owner prior to such costs being incurred. Retail Owner shall not attempt to reduce the assessment for the total Project or take any other action to reduce taxes on the total Project prior to the separate assessment of the Parcels without Hotel Owner's prior written consent, which consent shall not be unreasonably withheld or delayed. Any assessment

reduction, tax refund or benefit received as a result of such action shall be apportioned between the Owners in accordance with their respective portions of the real estate taxes.

ARTICLE VIII

INSURANCE

8.1 Insurance Required. Retail Owner and Hotel Owner shall procure and maintain the following insurance:

(A) Retail Owner shall keep the Retail Building (including all Easement Facilities and Common Elements located therein) insured for no less than "all risk" or "special cause of loss" coverage on real and personal property including coverage for demolition, contingent liability and increased costs of construction (with a \$1,000,000 (in 2000 Equivalent Dollars) sublimit for each of such demolition, contingent liability and increased costs of construction provisions) for an amount not less than one hundred percent (100%) of the insurable replacement cost thereof (exclusive of excavation and foundation costs and without depreciation). Hotel Owner shall keep the Hotel Building (including all Easement Facilities and Common Elements located therein) insured for no less than "all risk" or "special cause of loss" coverage on real and personal property including coverage for demolition, contingent liability and increased costs of construction (with a \$1,000,000 (in 2000 Equivalent Dollars) sublimit for each of such demolition, contingent liability and increased costs of construction provisions) for an amount not less than one hundred percent (100%) of the insurable replacement cost thereof (exclusive of excavation and foundation costs and without depreciation). Insurance carried by Hotel Owner hereunder may also include, at Hotel Owner's option, insurance of the Hotel Easement Facilities, and insurance carried by Retail Owner hereunder may also include, at Retail Owner's option, insurance of the Retail Easement Facilities; provided, however, that such additional insurance will not diminish or reduce the amount of coverage to which the other Owner would otherwise be entitled and provided further that the Owner desiring such additional insurance shall first obtain appropriate endorsements and acknowledgments from each insurer necessary to prevent the insurance company from raising the claim or defense of co-insurance or other like defenses or like claims adverse to the insured Owner. Replacement cost shall be determined periodically by a method acceptable to the insurance company providing such coverages. Such policies shall be endorsed with a replacement coverage endorsement and an agreed amount clause in accordance with such determination or appraisal;

(B) The Owners shall each maintain comprehensive or commercial general liability insurance with broad form comprehensive general liability coverage or its equivalent covering claims for personal injury, bodily injury and property damage occurring in or on their portion of the Project Site or in conjunction with the operation of their business (including, to the extent insurable, contractual liability covering obligations created by this Agreement including, but not limited to, those indemnity obligations contained herein), in such amounts as may be required by Law or as from time to time shall be carried by prudent owners of first-class retail or hotel buildings (as the case may be) in the City of Chicago, Illinois, but in all events for limits, as to each Owner and its portion of the Project, of not less than \$1,000,000 for each occurrence combined single limit for personal injury, bodily injury or property damage with an additional \$10,000,000 umbrella coverage (in 2000 Equivalent Dollars). In addition, each Owner shall cause its respective general contractors and its other contractors that perform construction or alteration work to the

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Project to maintain comprehensive or commercial general liability insurance with broad form comprehensive general liability coverage or its equivalent covering claims for personal injury, bodily injury and property damage occurring in or on the Project Site or in connection with any construction thereon in commercially reasonable and customary amounts, but in no event less than \$1,000,000 for each occurrence combined single limit for personal injury, bodily injury or property damage (in 2000 Equivalent Dollars);

(C) Each Owner shall maintain or cause its contractors to maintain builders' risk insurance during periods of construction by such Owner, until such construction is complete, in such amounts as carried by prudent owners of first-class retail or hotel buildings (as the case may be) in the City of Chicago, Illinois, but in all events for limits, as to each Owner and its portion of the Project, of not less than the full replacement cost of such Owner's portion of the Project as such replacement cost may fluctuate from time to time;

(D) Each Owner shall maintain worker's compensation insurance (or shall cause its management agents and contractors to maintain such insurance), in such amounts as may be required by Law or as from time to time shall be carried by prudent owners of first-class retail or hotel buildings (as the case may be) in the City of Chicago, Illinois and employers' liability insurance of not less than \$1,000,000 per accident or disease and \$1,000,000 in the aggregate (in 2000 Equivalent Dollars);

(E) Hotel Owner and Retail Owner shall each insure its boiler and machinery risks, on a comprehensive, blanket basis covering all Project equipment, machinery and apparatus consisting of, but not limited to, boilers, heating apparatus, fired and unfired pressure vessels, air conditioning equipment, miscellaneous electrical apparatus and their appurtenant equipment on a repair or replacement basis; and

(F) To the extent typically carried by owners of similar projects located on North Michigan Avenue that comply with the North Michigan Avenue Standard, Retail Owner and Hotel Owner, in addition to property insurance required under Section 8.1(4), shall each insure their respective portions of the Building against earthquake and flood risks subject, however, to deductibles available and reasonable for such types of insurance.

8.2 - - Insurance Companies. If the Owners so agree in writing, with respect to each of the insurance policies required in this Article VIII, the interest of all Owners may be insured by the same insurance policies. Such policies may be issued in combination covering one or several items and covering jointly the interests of each Owner. In any insurance policy covering the Owners jointly, the Owners shall apportion the premium based on the manner in which the insurance company has underwritten the risks. Primary insurance policies required by this Article VIII shall be purchased from insurance companies authorized and licensed to transact business in the State of Illinois. Insurance policies required by this Article VIII shall be purchased from insurance companies who shall hold a current Policyholder's Alphanumeric and Financial Size Category Rating of not less than A-IX according to A.M. Best's Insurance Reports or a substantially equivalent rating from a nationally-recognized insurance rating service. Relevant portions of policies required to be carried hereunder shall be available for inspection by the other Owner at the principal office of the Owner providing such insurance.

8.3 Insurance Provisions. Each policy described in **Section 8.1** hereof: (A) shall provide, except for insurance described in **Section 8.1(B)** and **Section 8.1(D)**, by endorsement or otherwise, that the insurance shall not be invalidated should any of the insureds under the policy waive in writing prior to a loss any or all rights of recovery against any party for loss occurring to the property insured under the policy, if such provisions or endorsements are available and provided that such waiver by the insureds does not invalidate the policy or diminish or impair the insured's ability to collect under the policy, or unreasonably increase the premiums for such policy unless the party to be benefitted by such endorsement or provision pays such increase; (B) shall provide, except for (i) insurance required by **Section 8.1(B)** and **Section 8.1(D)** and (ii) business interruption insurance proceeds, that all losses payable thereunder shall be paid to the Depository and shall be disbursed in accordance with the terms of this Agreement, and (C) shall provide for a minimum of thirty (30) days' advance written notice of the cancellation, nonrenewal or material modification thereof to all insureds thereunder (unless such cancellation is for nonpayment of premium, in which case only, ten (10) days' advance written notice shall be sufficient). Each Owner's insurance under **Section 8.1(A)**, **Section 8.1(C)**, **Section 8.1(E)**, **Section 8.1(F)**, and the components of the insurance required under **Section 8.1(B)** that relate to the indemnity obligations contained in this Agreement shall name the other Owner and the other Owner's mortgagees, agents, and constituent owners (as their interests may appear) to the extent the other Owner may designate such Persons in writing from time to time as additional insureds.

8.4 Limits of Liability. Limits of liability or types of insurance specified in this **Article VIII** shall be jointly reviewed by the Owners no less often than once every five (5) years at the request of any Owner, to determine if such limits, deductible amounts and types of insurance are reasonable and prudent in view of the type, place and amount of risk to be transferred, and to determine whether such limits, deductible amounts and types of insurance comply with the requirements of all applicable statutes, laws, ordinances, codes, rules, regulations, or orders and whether on a risk management basis, additional types of insurance or endorsements should be deleted. Initially, deductible amounts for insurance required under **Sections 8.1(A)** and **8.1(C)** shall not exceed \$100,000 (in 2000 Equivalent Dollars). Such limits shall be increased or decreased, deductible amounts increased or decreased or types of insurance shall be modified, if justified, based upon said periodic review, and upon any such increase, decrease or modification, the Owners shall, at any Owner's election, execute an instrument in recordable form evidencing such increase, decrease or modification, which any Owner may record with the Recorder as a supplement to this Agreement.

8.5 Renewal Policies. Copies of all renewal certificates delineating all forms of coverage and endorsements required hereunder shall be delivered by each Owner to the other Owners upon their written request. Certificates evidencing all forms of coverage and endorsements required hereunder shall be delivered by each Owner to the other Owner upon written request of such other Owner prior to the expiration date of any such expiring insurance policy. Should an Owner fail to provide and maintain any policy of insurance required under this **Article VIII** or pay its share of the premiums or other costs for any joint policies, then the other Owner may purchase such policy and the costs thereof (or the Defaulting Owner's share of such costs) shall be due from the Defaulting Owner within ten (10) days after the Creditor Owner's written demand therefor.

8.6 Waiver. Without limiting any release or waiver of liability or recovery contained elsewhere in this Agreement, each Owner hereby waives all claims for recovery from the other Owner for any loss or damage to any of its property insured (or required to be insured hereunder) and for any loss as a result of interruption of its business under valid and collectible

insurance policies to the extent of any recovery collectible (or which would have been collectible had such insurance required under this Agreement been obtained or maintained) under such insurance policies plus any deductible amounts. Each Owner shall obtain a waiver of subrogation clause in each of its insurance policies required by this **Article VIII** and its business interruption insurance.

8.7 Additional Insurance. Nothing herein shall preclude either Owner from purchasing additional coverage for its portion of the Project at its own cost and expense as required by its Mortgagee or otherwise desired by such Owner provided such additional coverage does not lessen or reduce any required coverage under this Agreement.

ARTICLE IX

MAINTENANCE AND REPAIR; DAMAGE TO THE PROJECT

9.1 Maintenance of Hotel Building. Except as expressly provided in this **Article IX** in the event of fire or other casualty and except as provided in **Article V**, and without limiting or diminishing such Owner's obligations under **Article IV**, Hotel Owner shall, at its sole cost and expense, carry out all necessary Maintenance required to keep (A) the Hotel Building and all Facilities therein other than the Retail Easement Facilities that serve the Retail Property exclusively, and (B) the Hotel Easement Facilities that serve the Hotel Property exclusively in good and safe order and in a condition at least equal to the North Michigan Avenue Standard, and shall make all repairs or replacements of, in, on, under, within, upon or about such property, whether said repairs or replacements are to the interior or exterior thereof, or structural or nonstructural components thereof, or involve ordinary or extraordinary repairs or replacements, necessary to keep the same in safe first-class order and condition and in a condition at least equal to the North Michigan Avenue Standard, howsoever the necessity or desirability thereof may arise, and whether or not necessitated by wear, tear, obsolescence, defects or otherwise. Hotel Owner further agrees that it shall not suffer or commit, and shall use all reasonable precautions to prevent, waste to its property.

9.2 Maintenance of Retail Building. (A) Except as expressly provided in this **Article IX** in the event of fire or other casualty and except as provided in **Article V**, and without limiting or diminishing such Owner's obligations under **Article IV**, Retail Owner shall, at its sole cost and expense carry out all necessary Maintenance required to keep (A) the Retail Building and all Facilities therein other than the Hotel Easement Facilities that serve the Hotel Property exclusively and (B) the Retail Easement Facilities that serve the Retail Property exclusively in good and safe order and in a condition at least equal to the North Michigan Avenue Standard, and shall make all repairs or replacements of, in, on, under, within, upon or about such property, whether said repairs or replacements are to the interior or exterior thereof, or structural and nonstructural components thereof, or involve ordinary or extraordinary repairs or replacements, necessary to keep the same in safe first-class order and condition and in a condition at least equal to the North Michigan Avenue Standard, howsoever the necessity or desirability thereof may arise, and whether or not necessitated by wear, tear, obsolescence, defects or otherwise. Retail Owner further agrees that it shall not suffer or commit, and shall use all reasonable precautions to prevent waste to such property.

(B) Retail Owner shall cause all trash to be collected and removed from its dumpsters located in the trash room described in **Section 2.10**.

9.3 Failure to Perform Maintenance.

(A) If Hotel Owner shall fail to perform as required by the terms and conditions of **Section 9.1** of this Agreement (except when such failure is caused by Retail Owner or an event described in **Article XII** hereof) and if Hotel Owner shall not diligently commence to cure such failure shall within 15 days after written notice thereof to Hotel Owner from Retail Owner (except in an Emergency Situation when no such notice is necessary), Retail Owner shall have the right to perform the same until such time as Hotel Owner cures its failure to perform. Hotel Owner shall reimburse Retail Owner for its reasonable costs in curing such failure.

(B) If Retail Owner shall fail to perform as required by the terms and conditions of **Section 9.2** of this Agreement (except when such failure is caused by Hotel Owner or an event described in **Article XII** hereof) and if Retail Owner shall not diligently commence to cure such failure shall within 15 days after written notice thereof to Retail Owner from Hotel Owner (except in an Emergency Situation when no such notice is necessary), Hotel Owner shall have the right to perform until such time as Retail Owner cures its failure to perform. Retail Owner shall reimburse Hotel Owner for its reasonable costs in curing such failure.

9.4 Cooperation. With respect to exterior Maintenance and Maintenance which affects Easement areas, the Owners shall cooperate to coordinate their efforts under this **Article IX** to attempt to provide a uniform and consistent Maintenance program. Hotel Owner, subject to Retail Owner's reasonable approval, shall be responsible for the installation, removal and Maintenance of seasonal decorations and landscaping and the lighting of sidewalks and public areas and other similar activities on or about Michigan Avenue such that the Project Site conforms to the North Michigan Avenue Standard.

9.5 Damage Affecting the Common Elements within the Retail Building only or the Common Elements within the Hotel Building only. (A) If any portion of the Building is damaged by fire or other casualty and (i) if such damage occurs in, on, under, within, upon or about the Hotel Building only and does not affect the Retail Easement Facilities and does not render an Easement granted pursuant to **Article II** unavailable or unusable, or (ii) if such damage occurs in, on, under, within, upon or about the Retail Building only and does not affect Hotel Easement Facilities and does not render an Easement granted pursuant to **Article III** unavailable or unusable, then, subject to the terms and provisions of this **Section 9.5**, any such damage to the Common Elements located in such Parcel shall be repaired and restored by the Owner of the portion of the Project in which any such damage occurs, in as timely a manner as practicable under the circumstances. Notwithstanding anything to the contrary in this **Section 9.5**, Hotel Owner shall have the right to elect not to repair all or any portion of the exterior roof, walls or facade of the Hotel Building that is located above the Retail Parcel or any windows or other exterior features located thereon or therein which are included in the definition of Common Elements; provided Hotel Owner completes such Removal Work and provided Hotel Owner notifies Retail Owner and its Mortgagee of its election to undertake the Removal Work in lieu of repairing any portions of the Hotel Building within ninety (90) days of such fire or other casualty. Any such Owner or its Mortgagee shall, in accordance with the provisions of **Article XVII**, be entitled to withdraw any insurance proceeds relating to the repair and restoration of the Common Elements and relating to the Removal Work held by the Depository by reason of any such damage, for application to the cost and expense of the repair and restoration of any such damage and the costs and expense of the Removal Work.

(B) If at any time either Owner so obligated to repair and restore such damage to the Common Elements or so obligated to complete the Removal Work shall not proceed diligently with (i) any repair or restoration adversely and materially affecting an Easement in favor of the other Owner or services to be furnished the other Owner under **Article V** hereof or such Owner's ability to use its Parcel or (ii) the Removal Work, then (a) the Creditor Owner may give written notice to the Defaulting Owner and its Mortgagee specifying the respect or respects in which such repair or restoration of the Common Elements or such Removal Work are not proceeding diligently and, if, upon expiration of ten (10) days after the receipt of such notice, any such work of repair or restoration to the Common Elements or Removal Work is still not proceeding diligently, then unless such failure is the result of Unavoidable Delay the Creditor Owner may perform such repair and restoration and Removal Work and may take all appropriate steps to carry out the same; or (b) in an Emergency Situation, the Creditor Owner may immediately perform such repair or restoration and Removal Work and may take all appropriate steps to carry out the same. The Creditor Owner in so performing such repair and restoration and Removal Work in accordance with **Article XVII** hereof, shall be entitled to withdraw any insurance proceeds and any other monies held by the Depository as a result of any such damage to the Common Elements and for completion of the Removal Work, applicable to the cost and expense of any such repair or restoration and Removal Work and shall be entitled to reimbursement upon demand from Defaulting Owner for all costs and expenses incurred by Creditor Owner in excess of such insurance proceeds and other monies held by the Depository with respect to the Common Elements and the Removal Work.

9.6 Joint Damage to the Common Elements. (A) If any of the Common Elements of the Project are damaged by fire or other casualty and if the provisions of **Section 9.5** are not applicable because the nature of the damage is such that it does not fall within either of the categories set forth in clause (A)(i) or (A)(ii) of **Section 9.5** then the repair and restoration of the Common Elements shall be the joint responsibility of the Owners. Notwithstanding the foregoing, Hotel Owner shall have the right to elect not to have all or any portion of the exterior roof, walls or facade of the Hotel Building that is located above the Retail Parcel or any windows or other exterior features located thereon or therein which are included in the definition of Common Elements repaired; provided Removal Work is completed and provided Hotel Owner notifies Retail Owner and its Mortgagee of its election to undertake the Removal Work in lieu of repairing any portions of the Hotel Building within ninety (90) days of such fire or other casualty.

(B) The repair and restoration of the Common Elements and the Removal Work, to the extent applicable, shall be subject to the terms and conditions of this **Section 9.6** and shall be commenced and pursued to completion in as timely a manner as practicable and shall be performed on behalf of the Owners by a contractor or contractors selected by the Owner of the Parcel that suffered the greatest amount of the physical damage (calculated in accordance with the costs associated with the repair of such damage to the respective Parcels) and approved by the other Owner (which approval shall not be unreasonably withheld) and approved by the Mortgagees. In the event the Owners fail to agree upon which Parcel suffered the greatest amount of the physical damage (calculated in accordance with the costs associated with the repair of such damage to the respective Parcels) the Owners shall request the advice of an architect selected by Hotel Owner and approved by Retail Owner (which approval will not be unreasonably withheld or delayed) (the "Selected Architect"). If the Owners fail to agree upon the selection of a contractor or contractors, the Owners shall request the advice of the Selected Architect. If after receiving the Selected Architect's advice, the Owners cannot agree on a contractor or contractors, then whether the Owner

of the Parcel that did not suffer the greatest amount of physical damage is being reasonable in its objection to the selection of a contractor or contractors shall be made by arbitration pursuant to **Article XI** hereof based upon the arbitrator's best judgment as to which of the designated contractors will provide the necessary quality work in a timely fashion at the best price.

(C) The plans and specifications for such repair and restoration of the Common Elements and for such Removal Work shall be prepared by the Selected Architect, unless the Owners otherwise agree, in accordance with instructions given by all Owners and approved by the Mortgagees. Unless prohibited by Law or otherwise agreed to by the Owners and their Mortgagees, such plans and specifications for the repair and restoration of the Common Elements shall provide for the Common Elements of the Project to be rebuilt as nearly identical as commercially practicable to the Project as constructed prior to the damage (except for the Exterior Bustle, to the extent it is being rebuilt, which can be rebuilt such that the appearance of the Exterior Bustle from ground level complies with subsection (B)(ii)(B) of the definition of North Michigan Avenue Standard and except for the other portions of the exterior roof, walls and facade which, if being rebuilt, can be rebuilt such that the appearance of such portions of the exterior roof, walls, and facade from ground level complies with the North Michigan Avenue Standard) and taking into account Hotel Owner's election to undertake the Removal Work in lieu of repairing and restoring all portions of the exterior roof, walls or facade. The Selected Architect shall furnish to each of the Owners and their Mortgagees a set of the plans and specifications which it has prepared or caused to be prepared. Unless the Owners and their respective Mortgagees otherwise agree, any contractor or contractors shall work under the supervision of the Selected Architect and the Selected Architect is hereby authorized and directed to instruct the Depository, from time to time, as such repair and restoration progresses, to disburse in accordance with **Article XVII** hereof (but only upon the receipt of the items and approvals required under **Section 17.1(B)(iii)**), the insurance proceeds held by the Depository and any other monies deposited with the Depository pursuant to **Section 9.7** hereof for application against the cost and expense of any such repair and restoration.

(D) Any Owner whose approval is required under this **Section 9.6** shall be deemed to have approved the matters submitted to it if it has not objected to such submittal, stating the basis for its objection, within ten (10) business days of receipt of such submittal. During any period for the selection of contractors or preparation of the plans for the repair and restoration, the Owners shall each take and permit the other Owners to take such repairs and actions as may be reasonably required to protect their property, including if necessary interim Structural Supports repairs and other repairs of an essential nature required to correct or prevent any Emergency Situation and to continue the operation of the respective Owner's businesses, if and to the extent practicable.

9.7 Cost of Repairs. If the cost and expense of performing (A) any repair and restoration provided for in **Section 9.6** shall exceed the available insurance proceeds if any, paid by reason of the damage, then such excess cost and expense (or the entire amount of such cost and expense, if there are no insurance proceeds) shall be borne by the Owners in proportion to the cost and expense of repairing and restoring to their former condition the portion of the Common Elements located within their respective Parcels or (B) any Removal Work shall exceed the available insurance proceeds, if any, paid by reason of the damage, then such excess cost and expense (or the entire amount of such cost and expense, if there are no insurance proceeds) shall be borne by Hotel Owner; provided, however, that to the extent such excess cost and expense results from the failure of any Owner to maintain the amount of insurance required under **Section 8.1** hereof or from carrying insurance for less than 100% of the insurable replacement cost, such Owner shall bear such

portion of such excess cost and expense (or the entire amount of such cost and expense, if there are no insurance proceeds).

9.8 Withdrawal of Proceeds Attributable to the Parcel other than Proceeds Attributable to Common Elements; Deposit of Excess Costs.

(A) In any instance of repair or restoration of Common Elements or Renewal Work pursuant to **Section 9.5** or **Section 9.6** hereof, the Owners shall determine, in their reasonable discretion, an estimate of the costs and expenses of such repair and restoration of Common Elements and the Removal Work (the "Estimate"), to the extent applicable, based on the plans and specifications, if applicable, which estimate shall be approved by the Mortgagees. If the Owners are unable to agree on the Estimate or are unable to obtain the Mortgagees approval of the Estimate, the Owners shall request the advice of the Selected Architect. If, after receiving the Selected Architect's advice, the Owners still cannot agree on the Estimate, the Estimate shall be made by arbitration pursuant to **Article XI** hereof and the determination of the Estimate shall be binding on the Owners and their Mortgagees. Once the Estimate is determined, each Owner shall have the right to withdraw from the Depository an amount equal to such Owner's Share subject to any rights granted by such Owner to its Mortgagee.

(B) In any instance of repair or restoration of Common Elements or Removal Work pursuant to **Section 9.5** or **Section 9.6** hereof, if the Estimate exceeds the amount of insurance proceeds, if any, paid or payable by reason of the damage, then any Owner may at any time give notice to the other Owners demanding that each Owner deposit with the Depository the amount of such excess cost and expense attributable to each Owner pursuant to this **Article IX** as a condition to commencing or continuing (as the case may be) such repair or restoration or Removal Work. If the Estimate is increased by change order, or if the Selected Architect estimates that the actual cost to complete such repair or restoration or Removal Work will exceed the original Estimate, then each Owner shall on demand of any other Owner deposit its share of such additional excess costs with the Depository as a condition to continuing such repair or restoration or Removal Work. In lieu of depositing its share of such excess amount based upon the Estimate, or actual cost and expense of performing such repair or restoration or Removal Work, an Owner may deliver to the Depository security for payment of its share reasonably acceptable to the other Owner and the Mortgagees. Such security may be in the form of, but shall not be limited to, an irrevocable and unconditional letter of credit in favor of the Depository in the face amount of the share owed or an irrevocable loan commitment, satisfactory to the other Owner and the Mortgagees, issued by a responsible lending institution to disburse an amount equal to such Owner's share of such excess or self-insured amount to the Depository to pay the cost and expense of any such repair or restoration or Removal Work as the work progresses, in proportion to such Owner's share of the cost and expense of any such repair or restoration or Removal Work. If the amount of the security required is based on an estimate of the cost and expense of repair and restoration and Removal Work, then the amount of security required to be deposited or available shall be readjusted upward or downward as the work progresses based on actual cost and expenses of the work. If an Owner shall fail to pay, or, as the case may be, deposit, such Owner's share of the cost and expense (or estimated cost and expense) of performing any repair or restoration or Removal Work in accordance with this **Section 9.8**, or fails to deliver the security provided for above within ten (10) days after receipt of any Owner's written demand therefor, then the Creditor Owner may deposit the Defaulting Owner's share and the Defaulting Owner shall, upon written demand, reimburse the Creditor Owner for such deposit and the Creditor Owner's reasonable costs and expenses incurred in connection with such deposit.

For any casualty where the cost of repair or restoration or Removal Work is estimated to exceed \$500,000 (in 2000 Equivalent Dollars), any Owner may require that the form of agreement with the person performing the work provide for a reasonable retainage and for reasonable financial assurances of timely, complete and proper performance, including, a payment and performance bond with a serial sum equal to the stipulated sum or estimated cost of the work provided in the construction contract; provided, however, the cost of such payment and performance bond shall be borne by and be an obligation of the Owner that requires the payment and performance bond.

9.9 Excess Insurance Proceeds. Upon completion of the repair and restoration of any damage to the Common Elements and the Removal Work, any remaining insurance proceeds paid by reason of such damage shall be refunded to each Owner (subject to any rights granted by such Owner to its Mortgagee) in proportion to the ratio that the insurance proceeds contributed by such Owner's insurance bears to the total insurance proceeds paid by all insurers for the repair and restoration or, if the insurance is provided by a single policy covering the Project, then the ratio of insurance proceeds attributed to such Owner's portion of the Project by the insurer to the total insurance proceeds paid by the insurer for the repair and restoration.

9.10 Agreement Not to Repair. If the Project is destroyed or substantially damaged, and Hotel Owner and Retail Owner agree not to rebuild, repair or restore the Project, subject to the prior written consent of the Mortgagees of Retail Owner and Hotel Owner as to the specific terms of such agreement in each instance, then the Project shall be demolished to the extent necessary to comply with all applicable laws and to the extent permitted by the PUD. In such event, the available insurance proceeds, other than insurance proceeds used to cause said demolition to be performed, shall be refunded to each Owner (subject to any rights granted by such Owner to its Mortgagee) in the same ratio of insurance proceeds contributed by such Owner's insurance to the total insurance proceeds paid by reason of such damage or, if the insurance is provided by a single policy covering the Project, then in the ratio of insurance proceeds attributed by the insurer to such Owner's portion of the Project to the total insurance proceeds paid by reason of such damage. If the Owners agree not to rebuild, repair or restore the Project, the rights of the Owners to receive available insurance proceeds, if any, shall be subject to the rights of the Mortgagee with respect to the applicable Owner's share of any such available insurance proceeds. Such demolition shall be deemed to be a "repair or restoration" to which the provisions of Sections 9.6, 9.7, 9.8 and 9.11 are applicable except that demolition, and not construction, shall be performed. In the event Hotel Owner and Retail Owner agree not to rebuild the Project, subject to the prior written approval of the Mortgagees of Retail Owner and Hotel Owner, they may also make provision for sale of the Project Site by the Owners and distribution of sale proceeds in accordance with the respective value of each Parcel.

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

9.12 Agreement of Mortgagees. Each Owner shall obtain the written consent of any Mortgagee of such Owner to the application of insurance proceeds as provided in this Article IX. The rights of any Mortgagee shall be subject to and subordinate to the provisions of this Section 9.12; provided that nothing herein shall restrict or limit (A) any rights of Mortgagee granted or permitted pursuant to the express terms of this Agreement or (B) any Mortgagee from imposing

higher or more restrictive standards on an Owner solely to the extent that such restrictions or limitations do not conflict with the terms of this Agreement and do not result in the unavailability of insurance proceeds required to be made available pursuant to this Agreement.

9.13 Owner's Right to Elect Not to Repair or Restore its Parcel. Except as expressly set forth in Sections 9.5 and 9.6, nothing contained in this Agreement shall obligate any Owner to repair or restore any portion of its Parcel that is damaged by fire or other casualty.

ARTICLE X

LIENS, DEBTS, INTEREST AND REMEDIES

10.1 Failure to Perform. If, at any time, any Owner fails within ten (10) days after notice or demand (or such other time period as may be specifically provided in this Agreement) to pay any sum of money due to another Owner, as Creditor Owner, under or pursuant to the provisions of this Agreement and provided the validity or amount of such monies is not be contested by such Owner in accordance with and pursuant to the terms and provisions of this Agreement, then, in addition to any other rights or remedies the Creditor Owner may have, the Creditor Owner shall have (a) a lien against the portion of the Project or Project Site owned by the Defaulting Owner, and (b) for a default under Sections 9.6 or 9.8, a lien against any insurance proceeds payable to the Defaulting Owner for loss or damage to such portion of the Project or Project Site or otherwise under insurance policies carried pursuant to Article VIII hereof to secure the repayment of such sum of money and all interest on such sum accruing pursuant to the provisions of this Article X. Such liens shall arise immediately upon the recording of a notice by the Creditor Owner with the Recorder and may be enforced by a proceeding in equity to foreclose such lien in like manner as a mortgage of real property in the State of Illinois or by any other remedy available by statute or at law or in equity. Such liens shall continue in full force and effect until such sum of money and any accrued interest thereon shall have been paid in full. The liens provided for in this Section 10.1 shall be subordinate to any bona fide mortgage or trust deed (as any such mortgage or trust deed may be amended, supplemented, extended, consolidated, or otherwise modified) which is a mortgage or trust deed against such portion of the Project or Project Site at the time of the recording of the notice of lien, including any and all future advances, regardless of whether all amounts have been advanced thereunder.

10.2 No Diminution of Lien. No conveyance or other divestiture of title (other than foreclosure of a lien which shall then be and remain superior) shall in any way affect or diminish any lien arising pursuant to this Article X, and any lien which would have arisen against any property pursuant to this Article X but for the passage of time shall not be defeated or otherwise diminished or affected by reason of such conveyance or divestiture of title.

10.3 Mortgagee's Subrogation. The holder of a mortgage or trust deed on all or any portion of the Hotel Property or of all or any portion of the Retail Property shall have the right to be subrogated to the position of the holder of any lien arising pursuant to this Article X affecting the property secured by its mortgage upon payment of the amount secured by such lien.

10.4 Interest Rate. Interest shall accrue on sums owed by a Defaulting Owner to a Creditor Owner and shall be payable from the date any such sum first became due hereunder until

paid in full, at a rate of interest equal to the lesser of: (a) the floating rate which is equal to four percent (4%) per annum in excess of the annual rate of interest from time to time announced by Bank One, N.A. at Chicago, Illinois or any successor thereto as its "base" or "reference" rate of interest or (b) the then maximum lawful rate of interest in Illinois applicable to the capacity of the Defaulting Owner and the nature of the debt. In the event such a base or reference rate is not announced or available, and no maximum lawful rate applies, then interest shall accrue at the annual rate of eighteen percent (18%).

10.5 Cumulative Remedies. Subject to the limitations set forth in Sections 10.6 and 21.1 hereof and the requirements for arbitration where specifically provided in this Agreement, the rights and remedies of an Owner provided for in this Article X or elsewhere in this Agreement are cumulative and not intended to be exclusive of any other remedies to which such Owner may be entitled at law or in equity or by statute, provided, however, an Owner shall not have the right to terminate this Agreement as a remedy. An Owner may enforce, by a proceeding in equity for mandatory injunction, another Owner's obligation to act or refrain from acting under this Agreement, including the obligation (i) to execute or record any document which such other Owner is required to execute under or pursuant to this Agreement, and (ii) to not make Alterations without the necessary approvals. The exercise by such Owner of any right or remedy to which it is entitled hereunder shall not preclude or restrict the exercise of any other right or remedy provided hereunder.

10.6 No Set-Off. Each claim of any Owner arising under this Agreement shall be separate and distinct, and no defense, set-off, offset or counterclaim arising against the enforcement of any lien or other claim of any Owner shall thereby be or become a defense, set-off, offset or counterclaim against the enforcement of any other lien or claim.

10.7 Period of Limitation. Actions to enforce any right, claim or lien under this Agreement shall be commenced within three (3) years immediately following the date an Owner making such claim discovers the cause of action accrued, or such other shorter period as may be provided by law or statute.

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

10.9 Default Shall Not Permit Termination of Agreement. No default under this Agreement shall entitle any Owner to cancel, rescind, or otherwise terminate this Agreement. In no event shall the provisions of this Section 10.9 affect, in any manner, any other rights or remedies that the Owners may have by reason of any default under this Agreement.

ARTICLE XI

ARBITRATION

11.1 Disputes Subject to Arbitration; Arbitration Procedure. All questions, differences, disputes, claims or controversies arising under this Agreement involving an amount not exceeding \$1,000,000 (in 2000 Equivalent Dollars) or involving any of the following matters: (i) selection of an insurance company or apportionment of insurance premiums under Section 8.2

hereof, (ii) appointment of a contractor or contractors pursuant to **Section 9.6** or **13.4** hereof, (iii) replacement of the Architect pursuant to **Section 18.3** hereof, which shall not be resolved within sixty (60) days after same shall arise, except where otherwise expressly provided herein, (iv) dispute under **Section 5.5**, (v) disputes described in **Sections 2.1(F)** and **3.1(F)** and (vi) any other matters for which arbitration is specifically required under this Agreement shall be submitted for arbitration to a panel of three (3) arbitrators at the Chicago, Illinois office of the American Arbitration Association in accordance with its then existing Commercial Arbitration Rules. Such arbitration may be initiated at the request of any Owner having an interest in such matter. The fees and costs of such arbitration (filing fees, arbitrators' fees and expenses, court reporter's fees and transcript fees, but exclusive of witness fees and attorneys' fees) shall be borne equally by the Owners involved in the arbitration; provided, however, the arbitrators may include in the award any of the fees and costs of arbitration. Any award of the arbitrators shall be final and binding upon each Owner involved in the arbitration and judgment thereon shall be entered by any court exercising jurisdiction over the Project Site or the Owners.

11.2 Monetary Adjustment to Disputes Subject to Arbitration. For purposes of this Agreement, "**2000 Equivalent Dollars**" means the equivalent purchasing power at any time of the value of One Dollar (\$1.00) in calendar year 2000. The 2000 Equivalent Dollars of any amount shall be determined by multiplying said amount by one (1) plus a fraction (but not less than zero), the numerator of which is the difference (expressed as a percentage) between (x) the monthly Consumer Price Index (as hereinafter defined) last published prior to the date of such determination and (y) the Consumer Price Index for December, 1999, and the denominator of which is the Consumer Price Index for December, 1999. As used herein, the term "**Consumer Price Index**" shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers, City of Chicago, All Items (Base Year 1982-1984 = 100) for the applicable month published by the Bureau of Labor Statistics of the United States Department of Labor or similar index agreed to by the Owners if such index is no longer available.

ARTICLE XII

UNAVOIDABLE DELAYS

No Owner shall be deemed to be in default in the performance of any obligation created under or pursuant to this Agreement, other than an obligation requiring only the payment of a sum of money, if and as long as non-performance of such obligation shall be directly caused by fire or other casualty, adverse weather, national emergency, governmental or municipal laws or restrictions, enemy action, civil commotion, strikes, lockouts, inability to obtain labor or materials, war or national defense preemptions, acts of God, energy shortages or similar cause beyond the reasonable control of such Owner (other than inability to make payment of money) ("**Unavoidable Delay**") and the time limit for such performance shall be extended for a period equal to the period of any such Unavoidable Delay. The Owner unable to perform (hereinafter, the "**Non-Performing Owner**") shall notify the other Owner in writing of the existence and nature of any Unavoidable Delay within a reasonable time after the onset of any such Unavoidable Delay. The Non-Performing Owner shall, from time to time upon written request of any other Owner, keep such other Owner fully informed, in writing, of all further developments concerning any such Unavoidable Delay.

ARTICLE XIIICONDEMNATION

13.1 In General. In the event of a taking by the exercise of the power of eminent domain or deed in lieu of condemnation of all or any part of the Project or Project Site by any competent authority for any public or quasi-public use, the award, damage or just compensation (hereinafter in this **Article XIII**, the "Award") resulting from any such taking shall be allocated and disbursed, and any repair and restoration of the Project shall be performed, in accordance with the requirements of this **Article XIII**.

13.2 Payment of Award to Depository; Withdrawal of the Portion of the Award Attributable to a Parcel as Opposed to the Common Elements and Removal Work; Temporary Taking Awards. (A) All Awards resulting from the taking of all or any part of the Project or Project Site, other than damages resulting from a taking of the temporary use of space as hereinafter described and other than as set forth in **Section 13.3**, shall be paid to the Depository and disbursed by the Depository as hereinafter provided.

(B) In any instance of repair or restoration of Common Elements or Removal Work pursuant to **Section 13.3**, or **Section 13.4** hereof, the Owners shall determine, in their reasonable discretion, the Estimate based on the plans and specifications, if applicable, which estimate shall be approved by the Mortgagees. If the Owners are unable to agree on the Estimate or are unable to obtain the Mortgagees approval of the Estimate, the Owners shall request the advice of the Selected Architect. If, after receiving the Selected Architect's advice, the Owners still cannot agree on the Estimate, the Estimate shall be made by arbitration pursuant to **Article XI** hereof and the determination of the Estimate shall be binding on the Owners and their Mortgagees. Once the Estimate is determined, each Owner shall have the right to withdraw from the Depository an amount equal to such Owner's Share subject to any rights granted by such Owner to its Mortgagee.

(C) In the event of a taking of a temporary use of any space not including Retail Easement Facilities or Hotel Easement Facilities or affecting services described in **Section 5.1** or in **Section 5.2** hereof, each Owner shall be entitled to receive directly from the taking authority any Award resulting from such temporary taking within its respective portion of the Project Site.

13.3 Taking Affecting Only One Parcel. (A) In the event of (i) a taking (other than a temporary taking) of a part of the Hotel Property only (not including any Retail Easement Facilities or affecting services described in **Section 5.1** or **Section 5.2** hereof, except those having minimal or incidental effect) that does not render an Easement granted pursuant to **Article II** unavailable or unusable, or (ii) a taking (other than a temporary taking) of a part of the Retail Property only (not including any Hotel Easement Facilities or affecting services described in **Section 5.1** or **Section 5.2** hereof, except those having minimal or incidental effect) that does not render an Easement granted pursuant to **Article III** unavailable or unusable, then, subject to the provisions of **Section 13.6** hereof, the Owner of the portion of the Project in which the taking occurred shall repair and restore the Common Elements located within its portion of the Project to form an architectural and functional whole. Notwithstanding anything to the contrary in this **Section 13.3**, Hotel Owner shall have the right to elect not to repair all or any portion of the exterior roof, walls, or facade of the Hotel Building that is located above the Retail Parcel or any windows or other exterior features

located thereon or therein which are included in the definition of Common Elements; provided Hotel Owner completes such Removal Work and provided Hotel Owner notifies Retail Owner and its Mortgagee of its election to undertake the Removal Work in lieu of repairing or restoring the Common Elements located within its portion of the Project within ninety (90) days of such taking. Such repair and restoration and Removal Work shall be commenced and pursued to completion in as timely a manner as practicable under the circumstances and shall be at the sole cost and expense of the Owner of the portion of the Project in which the taking occurred. Such Owner or its Mortgagee shall be entitled to withdraw any portion of the Award received by reason of any such taking for application to the cost of said repair and restoration and Removal Work and to retain any excess not required for such repair and restoration and Removal Work.

(B) If at any time either Owner so obligated to repair and restore such damage to the Common Elements or so obligated to complete the Removal Work shall not proceed diligently with (i) any repair or restoration adversely and materially affecting an Easement in favor of the other Owner or services to be furnished the other Owner under **Article V** hereof or such Owner's ability to use its Parcel or (ii) the Removal Work, then (a) the Creditor Owner may give written notice to the Defaulting Owner and its Mortgagee specifying the respect or respects in which such repair or restoration of the Common Elements or the Removal Work is not proceeding diligently and, if, upon expiration of ten (10) days after the receipt of such notice, any such work of repair or restoration to the Common Elements or Removal Work is still not proceeding diligently, then unless such failure is the result of Unavoidable Delay the Creditor Owner may perform such repair and restoration and Removal Work and may take all appropriate steps to carry out the same; or (ii) in an Emergency Situation, the Creditor Owner may immediately perform such repair or restoration and Removal Work and may take all appropriate steps to carry out the same. The Creditor Owner in so performing such repair and restoration and Removal Work shall be entitled to withdraw any Award and any other monies held by the Depository as a result of any such damage to the Common Elements and for completion of the Removal Work, applicable to the cost and expense of such such repair and restoration and Removal Work and shall be entitled to reimbursement upon demand from Defaulting Owner for all costs and expenses incurred by Creditor Owner in excess of such Award and other monies held by the Depository with respect to the Common Elements and the Removal Work.

13.4 Repair and Restoration by All Owners. (A) In the event of a taking affecting any of the Common Elements other than (i) a temporary taking described in **Section 13.2** hereof, (ii) a taking described in **Section 13.3** hereof, or (iii) a taking of all or substantially all of the Project or Project Site, then, subject to the provisions of **Section 13.6** hereof, the Owners shall cooperate to repair and restore the remainder of the Common Elements located within the Project in accordance with plans and specifications (hereinafter described) jointly approved by the Owners and their Mortgagees. Notwithstanding the foregoing, Hotel Owner shall have the right to elect not to have all or any portion of the exterior roof, walls or facade of the Hotel Building that is located above the Retail Parcel or any windows or other exterior features located thereon or therein which are included in the definition of Common Elements repaired or restored, provided such Removal Work is completed and provided Hotel Owner notifies Retail Owner and its Mortgagee of its election to undertake the Removal Work in lieu of repairing any portions of the Hotel Building within ninety (90) days of such taking.

(B) The repair and restoration of the Common Elements and the Removal Work, to the extent applicable, shall be commenced and pursued to completion in as timely a manner as practicable under the circumstances and shall be performed on behalf of all of the Owners by a

contractor or contractors selected by the Owner of the Parcel that suffered the greatest amount of the physical damage on account of such taking (calculated in accordance with the costs associated with the repair of such damage to the respective Parcels) and approved by the other Owner (which approval shall not be unreasonably withheld or delayed) and approved by the Mortgagees. The Owners shall have similar rights to those provided in Sections 9.7 and 9.8 as respects estimates of restoration and repair costs and requiring deposits of costs of repairs and restoration if the Award for a taking described in this Section 13.4 shall not be sufficient to pay for the necessary repairs and restoration and Removal Work. If such repair and restoration is to be performed solely within the Hotel Building, and does not affect the Retail Building, then neither the approval of Retail Owner nor its Mortgagee shall be required with respect to the plans and specifications therefor or with respect to the selection of a contractor. In such event, however, Hotel Owner shall keep Retail Owner and its Mortgagee informed as to those matters. If such repair and restoration is to be performed solely within the Retail Building, and does not affect the Hotel Building, then neither the approval of Hotel Owner nor its Mortgagee shall be required with respect to plans and specifications therefor or with respect to the selection of a contractor. In such event, however, Retail Owner shall keep Hotel Owner and its Mortgagee informed as to those matters. In all other situations, in the event the Owners and their Mortgagees fail to agree upon which Parcel suffered the greatest amount of the physical damage (calculated in accordance with the costs associated with the repair of such damage to the respective Parcels) or the selection of a contractor or contractors, the Owners shall request the advice of the Selected Architect. If, after receiving the Selected Architect's advice, the Owners and their Mortgagees cannot agree on a contractor or contractors, then whether the Owner of the Parcel that did not suffer the greatest amount of physical damage is being reasonable in its objection to the selection of a contractor or contractors shall be made by arbitration pursuant to Article XI hereof based upon the arbitrator's best judgment as to which of the designated contractors will provide the necessary quality work in a timely fashion at the best price.

(C) The plans and specifications for such repair and restoration of the Common Areas and Removal Work shall be prepared by the Selected Architect, unless either Owner is given unilateral authority as set forth above or the Owners and their Mortgagees shall otherwise agree in accordance with instructions given by all affected Owners and their Mortgagees. Such plans and specifications shall provide for repair and restoration of the remainder of the Project taking into account the Removal Work, if applicable, to form an architectural and functional whole with such changes in the Project as shall be required by reason of such taking and Removal Work, if applicable and to comply with the North Michigan Avenue Standard (except for the Exterior Bustle, to the extent it is being repaired and restored, which can be rebuilt such that the appearance of the Exterior Bustle from ground level complies with subsection (A) and subsection (B)(ii) of the definition of North Michigan Avenue Standard). If, as a result of such taking, any Easements or covenants under this Agreement are extinguished or materially impaired, then changes shall be made to provide for easements of access, ingress and egress and use of Facilities and for furnishing of services comparable, to the extent commercially practicable, to Easements created under Articles II and III hereof and for the furnishing of services under Article V hereof. The Selected Architect will furnish to each of the Owners (but only if such Owner's approval is required) and their Mortgagees a set of such plans and specifications for their approval. Unless either Owner is given unilateral authority as set forth above or the Owners otherwise agree, the contractor or contractors shall work under the supervision of the Selected Architect, and the Selected Architect is hereby authorized and directed to instruct the Depository, from time to time, as such repair and restoration progresses, to disburse, in accordance with Article XVII hereof, any Award paid to the Depository for application to the cost and expense of such repair and restoration and Removal Work.

(D) Any Owner whose approval is required under this **Section 13.4** shall be deemed to have approved the matters submitted to it if it has not objected to such submittal, stating the basis for its objection, within ten (10) business days of receipt of such submittal.

13.5 Excess Award. The Award for any taking described in **Section 13.4** shall first be used to pay for the repair and restoration of the Common Elements (including any demolition, repair or restoration under **Section 13.6** hereof) and Removal Work, if applicable. Any excess of the Award over the cost of repair and restoration of the Common Elements and the Removal Work shall then be allocated to those Owners whose property was taken in accordance with the apportionment made in any final judicial or administrative proceedings in connection with the taking, or otherwise as agreed to by the affected Owners, subject to any rights granted by such Owner to its Mortgagee.

13.6 Intentionally Deleted.

13.7 Allocation of Award. In the event of a taking of all or substantially all of the Project or Project Site, the Award for such taking shall be allocated to the Owners in accordance with the apportionment made in any final judicial or administrative proceedings in connection with the taking and paid to the Owners in accordance with said apportionment.

13.8 Consent of Mortgagees. Each Owner shall obtain the written consent of its Mortgagees to the application of condemnation proceeds as provided in this **Article XIII**. The rights of any Mortgagee shall be subject to and subordinate to the provisions of this **Section 13.8**; provided that nothing herein shall restrict or limit (A) any rights of Mortgagee granted pursuant to the express terms of this Agreement or (B) any Mortgagee from imposing higher or more restrictive standards on an Owner solely to the extent that such restrictions or limitations do not conflict with the terms of this Agreement and do not result in the unavailability of the Award required to be made available pursuant to this Agreement.

13.9 Owner's Right to Elect Not to Repair or Restore its Parcel. Except as expressly set forth in **Sections 13.2, 13.3, 13.4, and 13.6**, nothing contained in this Agreement shall obligate any Owner to repair or restore any portion of its Parcel that is damaged by any taking by the power or eminent domain or a deed in lieu thereof.

ARTICLE XIV

ALTERATIONS

14.1 Permitted Alterations.

(A) An Owner (hereinafter in this **Article XIV**, "Altering Owner") may, at any time, at such Altering Owner's sole cost and expense, make additions, improvements or alterations (hereinafter in this **Article XIV**, "Alterations") to the part of the Project within such Altering Owner's portion of the Project Site, provided that such Alterations comply with the balance of this **Section 14.1** and all of the other provisions of this **Article XIV**. In no event shall the provisions of this **Article XIV** negate or diminish any other provisions of this Agreement having to do with additions, improvements, or alterations expressly required or permitted in **Article IV, Article V,**

Article VI, Article IX, and Article XIII hereof which are governed by such provisions unless also designated in such Articles as "Alterations" to be governed by this **Article XIV**.

(B) Alterations shall not be made without the prior written consent of the other Owner and its Mortgagee if such Alterations will:

- (i) during their performance or upon their completion, diminish in any material respect the benefits afforded to any other Owner by an Easement (unless such Owner provided other suitable substitute arrangements that are reasonably acceptable to such other Owner) or unreasonably interrupt any other Owner's use or enjoyment of any Easement;
- (ii) during their performance or upon their completion, materially degrade or diminish services to any other Owner under **Article V** hereof;
- (iii) during their performance or upon their completion, increase, other than to a de minimus extent, the costs or expenses for which any Owner is or would be responsible pursuant to **Article V** hereof;
- (iv) alter the Michigan Avenue or Ohio Street portion of the Exterior Bustle (including color and finish) of the Project (other than signage installed by an Owner on the Exterior Bustle for identification of the Project, commercial occupants or commercial tenants of the Building as specifically permitted under this Agreement and provided such signage is in compliance with the terms of this Agreement);
- (v) consist of drilling, coring, chipping, chopping, or otherwise making any opening or hole greater than one-half inch ($\frac{1}{2}$ ") in diameter into any Structural Supports, including floor slabs and beams or vertical column elements in violation of **Section 4.1** hereof; or
- (vi) materially and adversely interfere with the operation of the business of the other Owner that is then being operated in such other Owner's Parcel.

(C) Retail Owner shall not make Alterations without the consent of Hotel Owner and its Mortgagee if such Alterations will:

- (i) materially adversely affect Hotel Easement Facilities; or
- (ii) impair any existing Structural Supports for the Hotel Building or necessitate the erection of additional columns, bearing walls, or other structures upon or within the Hotel Parcel for the support of the Retail Building.

(D) Hotel Owner shall not make any Alterations without the consent of Retail Owner and its Mortgagee if such Alterations will:

- (i) materially adversely affect Retail Easement Facilities; or
- (ii) impair any existing Structural Supports for the Retail Building or necessitate the erection of additional columns, bearing walls or other structures upon or within the Retail Parcel for the support of the Hotel Building.

(E) If, at any time, the Altering Owner proposes to make any Alterations which require or could possibly require the consent of the other Owner or its Mortgagee, then before commencing or proceeding with such Alterations, the Altering Owner shall deliver to the other Owner and its Mortgagee a copy of the plans and specifications showing the proposed Alterations and a reference to this **Section 14.1**. If such other Owner and its Mortgagee consents to such Alterations or states that its consent is not required, the Altering Owner may proceed to make its Alterations substantially in accordance with said plans and specifications. The Owner and its Mortgagee whose consent is requested shall respond to the Altering Owner within thirty (30) days after its receipt of said plans and specifications from the Altering Owner showing proposed Alterations. If the Altering Owner has not requested the other Owner's consent to the proposed Alterations, and if, in the good faith opinion of the other Owner or its Mortgagee, the Altering Owner has violated or will violate the provisions of **Section 14.1(A)** or **(B)**, then such Owner (the "**Objecting Party**") believing a violation exists shall notify the Altering Owner and its Mortgagee of its opinion that the Alterations or proposed Alterations violate or will violate the provisions of **Section 14.1(A)** or **(B)** hereof, and shall specify the respect or respects in which its provisions are or will be violated. If an Objecting Party in good faith asserts a violation of **Section 14.1(A)** or **(B)**, then the Altering Owner shall not commence with the Alterations or proceed with the Alterations, if already commenced, until the matter has been resolved.

(F) If any matter arises among the Owners with respect to whether any Alterations or proposed Alterations violate the provisions of **Section 14.1(A)** or **(B)**, then any Owner may submit such matter to the Architect for its advice, and the Architect shall render its opinion whether the Alterations or proposed Alterations violate the provisions of **Section 14.1(A)** or **(B)** hereof. Such determination of the Architect shall be final and binding upon the parties hereto.

(G) The Owners in making Alterations shall (i) perform all work in a good and workmanlike manner and in accordance with good construction practices, (ii) comply with all Laws, including the City of Chicago Building Code, and (iii) comply with all of the applicable provisions of this Agreement. Each Owner shall, to the extent reasonably practicable, make Alterations within its portion of the Project in such a manner as to minimize any noise, vibrations, particulates and dust infiltration or other disturbance which would disturb an occupant or occupants of the other portion of the Project and during times and dates reasonably requested by the other Owner but such Owner shall not be liable in any event for damages as a result of any disturbance (as opposed to physical damage to property) normally incidental to construction.

14.2 **Building Permits.** Applications for building permits to make Alterations shall be filed and processed by the Altering Owner without the joinder of the other Owners in such application, unless the City of Chicago or other government agency having jurisdiction thereof

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requires joinder of the other Owners. If joinder by the other Owners not making Alterations is so required, said Owners shall cooperate in executing such application or other instruments as may be necessary to obtain the building permit; provided, however, the Altering Owner shall indemnify and hold harmless the other Owners from and against any and all loss, liability, claims, judgments, costs and expenses arising out of the other Owners' execution of the application, permit or other instrument.

14.3 No Liens. An Owner performing any work required or provided for under this Agreement, including work under **Articles IX or XIII**, shall include in any construction contract a provision pursuant to which the contractor (i) recognizes the separate ownership of the Retail Property and the Hotel Property and agrees that any lien rights which the contractor or subcontractors have under the Mechanics' Liens Act set forth in Chapter 82 of the Illinois Revised Statutes (said Act and any successors thereto, the "**Mechanics' Lien Act**") shall only be enforceable against the portion of the Project or Project Site owned by the Altering Owner, or (ii) agrees that no lien or claim may be filed or maintained by such contractor or any subcontractors and agrees to comply with the provisions of Section 21 of the Mechanics' Lien Act in connection with giving notice of such "no lien" provisions.

ARTICLE XV

ESTOPPEL CERTIFICATES

15.1 Estoppel Certificates. Each Owner, from time to time, within fifteen (15) days after written request from the other Owner or any Mortgagee (as defined in **Section 20.11(A)** hereof) which has complied with the notice provisions of **Section 20.11(B)** hereof, shall execute, acknowledge and deliver to the requesting party a certificate ("**Estoppel Certificate**") stating:

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

(B) Whether, to the knowledge of the Owner executing the Estoppel Certificate, there is any existing default under this Agreement (or grounds therefor after giving the requisite notice hereunder) by the requesting Owner (or the Owner whose Mortgagee is making the request) and, if so, specifying the nature and extent thereof;

(C) Whether there are any sums which the Owner executing such Estoppel Certificate is due from or payable to the requesting Owner, and if there is any such sum, specifying the nature and amounts thereof;

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

(E) The nature and extent of any set-offs, claims, counterclaims or defenses then being asserted or capable of being asserted after giving the requisite notice, if any, required

hereunder or otherwise known by the Owner against the enforcement of the requesting Owner's obligations hereunder;

(F) The total amount of all liens being asserted or capable of being asserted after giving the requisite notice, if any, required hereunder or otherwise known by the Owner executing the Estoppel Certificate under the provisions of this Agreement describing the applicable provision or provisions and the details of any such lien claim;

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

(H) Whether there has been any request for or recommendation of reallocation of costs pursuant to **Section 5.6** hereof which has not been included in any modification referred to in clause (A) above, and if so, setting forth any such request or recommendation;

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

(J) The current address or addresses to which notices given to the Owner executing such Estoppel Certificate are required to be mailed under **Article XIX** hereof; and

(K) Such other facts or conclusions as may be reasonably requested.

15.2 Failure to Provide. Any Owner failing to provide an Estoppel Certificate containing the certifications set forth in **Section 15.1(A)** through **Section 15.1(J)** above, within thirty (30) days after written notice that it has failed to comply with this **Article XV** shall, in addition to any other remedies available to the requesting Owner, be estopped from asserting any claims which are contrary to the statements contained in the form of estoppel certificate submitted to it under this Agreement.

ARTICLE XVIDEPOSITARY

16.1 Appointment of Depositary. A depositary (the "Depositary") shall be appointed in the manner hereinafter provided to act as a trustee to receive insurance proceeds relating to the Common Elements and the Removal Work pursuant to **Article IX** and condemnation Awards relating to the Common Elements and the Removal Work pursuant to **Article XIII**, to disburse such monies and to act otherwise in accordance with the terms and provisions of this Agreement. At the election of any Owner's Mortgagee, such Mortgagee may serve as the Depositary for all proceeds and Awards attributable to such Owner's portion of the Common Elements and Removal Work provided such Mortgagee holds and disburses such amounts in accordance with the terms of this Agreement. In such event, the "Depositary" shall collectively mean all parties acting in the capacity of Depositary hereunder. To the extent the Mortgagees do not elect to act as the Depositary or there are no Mortgagees, the Depositary shall be appointed by the Owners jointly with the consent of the Mortgagees and shall be one of the then five (5) largest banks or trust companies (measured in terms of capital funds) with principal offices in Chicago, Illinois or a bank or trust company with an office in Illinois with capital in the United States which is equal to or greater than that of the 5th largest bank or trust company with its principal offices in Chicago, Illinois. The Depositary shall be entitled to receive from each of the Owners said Owner's Equitable Share of the Depositary's reasonable fees and expenses for acting as Depositary, and may retain said fees and expenses, free of trust, from monies held by it. Any Depositary appointed to act hereunder shall execute an agreement with the Owners accepting said appointment. The "Equitable Share" of any Owner of Depositary's fees and expenses shall be based upon the share of deposits held from time to time by Depositary from or on behalf of such Owner; and if fees are due the Depositary and no funds are then held by Depositary, a portion based upon the Architect's reasonable estimate of the value of each Owner's portion of the Project.

16.2 Liability of Depositary. The Depositary shall not be liable or accountable for any action taken or disbursement made in good faith by the Depositary, except that arising from its own negligence or wilful misconduct. The Depositary's reliance upon advice of independent competent counsel shall be conclusive evidence of good faith, but shall not be the only manner in which good faith may be shown. The Depositary shall have no affirmative obligation to prosecute a determination of the amount of, or to effect the collection of, any insurance proceeds or condemnation Award or Awards unless the Depositary shall have been given an express written authorization from the Owners; provided that if only one Owner claims said insurance proceeds or condemnation Award or Awards, then said Owner alone may authorize the Depositary to so proceed. In addition, the Depositary may rely conclusively on any certificate furnished by the Architect or Selected Architect, as applicable, to the Depositary in accordance with the provisions of **Section 17.1** hereof and shall not be liable or accountable for any disbursement of funds made by it in reliance upon such certificate or authorization.

16.3 Interest on Deposited Funds. The Depositary shall have no obligation to pay interest on any monies held by it unless the Depositary shall have given an express written undertaking to do so, or, unless all of the Owners for whose benefit monies are being held have requested in connection with a specified deposit of funds with the Depositary that the Depositary undertake to do so. However, if the monies on deposit are not held in an interest-bearing account

pursuant to an agreement among the Depository and said Owners, then the Depository, within thirty (30) days after request from any of said Owners given to the Depository and to the other said Owners, shall purchase with such monies, to the extent feasible, negotiable United States Government securities payable to bearer and maturing within one (1) year from the date of purchase thereof, except insofar as it would, in the good faith judgment of the Depository, be impracticable to invest in such securities by reason of any disbursement of such monies which the Depository expects to make shortly thereafter, and the Depository shall hold such securities in trust in accordance with the terms and provisions of this Agreement and the Depository Agreement. Any interest paid or received by the Depository on monies or securities held in trust, and any gain on the redemption or sale of any securities, shall be added to the monies or securities so held in trust by the Depository and shall be payable with and in the same fashion as the funds deposited. Monies received by the Depository pursuant to any of the provisions of this Agreement shall not be mingled with the Depository's own funds and shall be held by the Depository in trust for the uses and purposes herein provided.

16.4 Indemnification of Depository. In consideration of the services rendered by Depository, the Owners jointly and severally hereby agree to indemnify and hold harmless the Depository from any and all damage, liability or expense of any kind whatsoever (including, but not limited to, reasonable attorneys' fees and expenses) incurred in the course of Depository's duties hereunder or in the defense of any claim or claims made against Depository by reason of its appointment hereunder, except where due to the negligence or wilful misconduct of the Depository or actions not taken in good faith by the Depository.

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

ARTICLE XVII

DISBURSEMENTS OF FUNDS BY DEPOSITARY

17.1 Disbursement Requests.

(A) Each request by the Architect or Selected Architect, as applicable, or, if no Architect or Selected Architect is required hereunder, an Owner, acting pursuant to the provisions of this Agreement for disbursement of insurance proceeds, any condemnation Award or other funds required hereunder for application to the cost of repair, restoration or demolition of the Common Elements or the Removal Work (the "Work") shall be accompanied by a certificate of the Architect or Selected Architect, as applicable, (or, if no Architect or Selected Architect is required, an architect supervising or familiar with the Work) (the "Architect's Certificate"), dated not more than ten (10)

days prior to the date of the request for any such disbursement, directed to the Depository and any Owner and its Mortgagee involved in such Work setting forth the following:

(i) That the sum requested has either (a) been or will be paid by or on behalf of an Owner (in which event the certificate shall name such Owner) or by or on behalf of all of the Owners (in which event the certificate shall specify the amount paid by each respective Owner), or (b) is justly due to contractors, subcontractors, materialmen, engineers, architects or other persons (whose names and addresses shall be stated) who have rendered or furnished certain services or materials for the Work; such certificate shall also give a brief description of such services and materials and the principal subdivisions or categories thereof, the respective amounts so paid or due to each of said persons in respect thereof and shall state the progress of the Work up to the date of said certificate and any other information required by the Mechanics' Liens Act and/or any title insurer affording coverage against mechanics' liens;

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

(iii) That no part of the cost of the services and materials described in the certificate has been the basis of the withdrawal of any funds pursuant to any previous request or is the basis of any other pending request for funds;

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

(v) That all of the Work so far completed is proper, is in accordance, in all material respects, with all applicable Laws, and is of the quality and class at least equal to the original Work and as nearly as commercially practicable to the improvements existing immediately prior to the casualty or condemnation (unless prohibited by law) and is in accordance with the approved plans and specifications, and is in compliance with the other requirements of this Agreement.

(B) Upon

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

(ii) receipt of contractors' and subcontractors sworn statements required under the Mechanics' Lien Act accompanied by partial or final waivers of lien, as appropriate, and any other information required by any title insurer affording coverage against mechanics' liens from the persons named in the sworn statement, and

(iii) approval by the title insurer, the Owners, and their Mortgagees of the lien waivers and other documentation, and the willingness of the title insurer to issue an endorsement (satisfactory to the Owners and their Mortgagees) insuring over possible mechanics' lien claims relating to Work in place,

the Depository shall, out of the monies so held by the Depository, pay or cause to be paid to the Owners, contractors, subcontractors, materialmen, engineers, architects and other persons named in the Architect's Certificate and contractors' and subcontractors' sworn statements the respective amounts stated in the Architect's Certificate and statements due them. Notwithstanding the foregoing, any or all of the Owners or the Mortgagees or the Depository may require that disbursements be made through the usual form of construction escrow then in use in Chicago, Illinois, with such changes as may be required to conform to the requirements or provisions of this Agreement. The Depository may rely conclusively, with respect to the information contained therein, on any Architect's Certificate furnished to the Depository in accordance with the provisions of this **Section 17.1** and shall not be liable or accountable for any disbursement of funds made by it in reliance upon such certificate or authorization.

17.2. No Lien or Consent by Contractor. No contractor, subcontractor, materialman, engineer, architect or any other person whatsoever, other than the Owners and Mortgagees, shall have any interest in or right to or lien upon any funds held by the Depository; provided, that such funds shall only be used for repair, restoration or demolition as required by this Agreement, except as hereinafter set forth. The Owners, with the written consent of the Mortgagees, may jointly at any time provide for a different disposition of funds than that provided for in this Agreement, without the necessity of obtaining the consent of any contractor, subcontractor, materialman, engineer, architect or any other person whatsoever. If at any time the Owners, with the consent of the Mortgagees, shall jointly instruct the Depository in writing with regard to the disbursement of any funds held by the Depository, then the Depository shall disburse such funds in accordance with said instructions and the Depository shall have no liability to any person by reason of having so disbursed said funds in accordance with said instructions.

ARTICLE XVIII

ARCHITECT; SELECTED ARCHITECT

18.1 Appointment of Architect. When an Architect's (as opposed to a Selected Architect) services are required under this Agreement, the Owners shall jointly select a firm consisting of both architects and engineers (or a firm of architects and a firm of engineers agreeing to act jointly hereunder) experienced in the design and operation of high-rise structures similar to the Project to serve under and pursuant to the terms and provisions of this Agreement (the "Architect") and provide written notice of such selection to any Mortgagees. If a Mortgagee objects to such selection in writing within seven days after its receipt of notice, the Owners shall select a new Architect. An Architect shall be deemed appointed if all Mortgagees consent or fail to object to such appointment within seven days of receipt of notice of the Owners' selection. The Architect shall, upon its appointment, execute an agreement with the Owners in a form mutually agreeable to the Owners and if no agreement can be reached then substantially in the form of The American Institute of Architects then standard form agreement between owners and architects for designated services, which agreement shall incorporate those services necessary to implement the provisions of this Agreement and shall provide that the Owners may cause the then serving Architect to be replaced without cause and without payment of any separate termination fee upon thirty (30) days' prior written notice. The Owners jointly may replace the Architect for any reason. If all Owners do not jointly desire to replace the Architect, then the Owner desiring replacement of the Architect shall serve notice upon the other Owner and its Mortgagee requesting the removal of the then-serving

Architect, which notice shall set forth with specificity the basis for such request, including if applicable the respect or respects in which Architect shall have failed to perform diligently or competently. If in the opinion of an Owner or its Mortgagee receiving such notice it is not appropriate to replace the Architect, an Owner receiving such notice and objecting to the replacement of the Architect shall notify the other Owner of its objection in writing within fifteen (15) days after receipt of such notice from the requesting Owner. If, within ten (10) days after receipt by the Owner desiring to replace the Architect of such objection, the Owners do not resolve their differences, then the dispute shall be settled by arbitration pursuant to **Article XI** hereof. The Architect sought to be replaced may give evidence or otherwise participate in the arbitration proceeding, but said proceeding shall not serve any purpose other than the purpose of determining whether the Architect should be replaced. Any Architect acting hereunder shall have the right to resign at any time upon not less than ninety (90) days' prior written notice to the Owners.

15.2 Notice of Submission of Dispute to Arbitration. In any instance when the Architect serving pursuant to **Section 18.1** hereof is authorized by this Agreement to advise the Owners concerning any dispute or matter, any Owner involved in such dispute or matter may submit the same to the Architect. The Owner submitting such dispute or matter shall simultaneously give written notice of the submission of such dispute or matter to the other Owner involved in such dispute. The Architect, except in an Emergency Situation, shall afford each Owner involved in any dispute or matter, and any attorney or other representative designated by such Owner, an opportunity to furnish information or data or to present such party's views. The Architect shall not be liable for any advice given by it hereunder, or for any other action taken by it hereunder, in good faith and in the absence of negligence.

18.3 Replacement of Architect. If any new Architect is appointed hereunder, and if the Architect being replaced is then engaged in the resolution of any dispute or matter theretofore submitted hereunder, or if the Architect being replaced is then engaged in the preparation of any plans and specifications or in the supervision of any work required hereunder or pursuant hereto, then, if all Owners so choose, the Architect being replaced shall continue to act as Architect with respect, and only with respect, to such pending dispute or the completion of such preparation of plans and specifications or supervision of any such work.

18.4 Architect's Fees and Selected Architect's Fees. The Architect and the Selected Architect shall be paid a reasonable fee for any services rendered hereunder and shall be reimbursed for reasonable and necessary expenses incurred in connection therewith in each case in accordance with its agreement, and each Owner shall pay a share of such fees based upon the cost of the services rendered to its portion of the Project in proportion to the cost of the services to the Project. In this regard, in any instance when the Architect or the Selected Architect, as applicable, shall, in accordance with any of the provisions of this Agreement, render services in connection with the preparation of plans and specifications or the supervision of repair, restoration or demolition of the Project or any part thereof, the fees and expenses of the Architect or Selected Architect, as applicable, shall be considered as costs and expenses of such repair, restoration or demolition, as the case may be, and shall be paid in the same manner as other costs and expenses of repair, restoration and demolition under the provisions of this Agreement pursuant to which the Architect or Selected Architect, as applicable, is performing such services. If any Owner shall fail to pay its allocable share of any fees or expenses of the Architect or Selected Architect, as applicable, within ten (10) days after receipt of any invoice therefor from the Architect or Selected Architect, as applicable, then

any other Owner may pay the same and the Owner failing to pay shall, within ten (10) days after written demand for reimbursement, reimburse the other Owner for any such payment.

ARTICLE XIX

NOTICES AND APPROVALS

19.1 Notice to Parties. Each notice, demand, request, consent, approval, disapproval, designation or other communication (all of the foregoing are herein referred to as a "**notice**") that an Owner is required, permitted or desired to give or make or communicate to the other Owner shall be in writing and shall be given or made or communicated by personal delivery, United States mail, facsimile, or nationally recognized overnight courier service addressed as follows:

If to Retail Owner: RN 540 Hotel Company, L.L.C.
c/o The John Buck Company
233 South Wacker Drive, Suite 550
Chicago, Illinois 60606
Attention: Mr. John Q. O'Donnell
Facsimile: 312/993-0857

and to: RN 540 Hotel Company, L.L.C.
c/o The Morgan Stanley Real Estate Fund II, L.P.
1585 Broadway
New York, New York 10036
Attention: Mr. Michael E. Foster
Facsimile: 212/761-0524

With a copy to: Mayer, Brown & Platt
190 South LaSalle Street
Chicago, Illinois 60603-3441
Attention: Dean Isaacs, Esq.
Facsimile: 312/706-8711

and to: Jones, Day, Reavis & Pogue
2727 Harwood
Dallas, Texas 75201-1515
Attention: David J. Lowery, Esq.
Facsimile: 214/969-5100

and with a copy to any Mortgagee of Retail Owner which has complied with the notice provisions of Section 20.11 hereof.

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If to Hotel Owner: c/o LaSalle Hotel Advisors
1401 Eye Street, N.W.
Suite 900
Washington, D.C. 20005
Attn: Alan DeSantis
Fax: 202/222-2653

With a Copy to: Carlyle Realty Group
1001 Pennsylvania Avenue, N.W.
Suite 220 South
Washington, D.C. 20004
Attn: Gary Block
Fax: 202/639-9389

Hagan & Associates
200 East Randolph Drive
Suite 4322
Chicago, Illinois 60601
Attn: Robert K. Hagan
Fax: 312/228-0982

Simpson Thacher & Bartlett
425 Lexington Avenue
New York, New York 10017-3925
Attn: Glenn D. Kesselhaut
Fax: 212/455-2502

And with a Copy to: Chicago Marriott Downtown
540 North Michigan Avenue
Chicago, Illinois 60611
Attn: General Manager
Fax: 312/245-6926

Marriott International, Inc.
10400 Fernwood Road
Bethesda, Maryland 20817
Attn: Law Department 52/923
U.S. Lodging Operations
Fax: 301/380-3667

and with a copy to any Mortgagee of Hotel Owner which has complied with the notice provisions of Section 20.11 hereof.

Any Owner may designate a different address from time to time, provided however it has given at least ten (10) days' advance notice of such change of address. If any Person which is an Owner shall cease to be the "Owner" of its respective portion of the Project, and the succeeding Owner of that portion of the Project shall fail to give a notice of change of address, then notice may be sent to any

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one of the following: (i) to the last Owner of record disclosed to the Owner giving notice, (ii) to "Owner of Record" at the street address for that Owner's portion of the Project as designated by the U.S. Postal Service (or by the successor of the U. S. Postal Service), or (iii) to the grantee at the address shown in that last recorded conveyance of the portion of the Project in question. Any such notice or communication shall be deemed received: upon receipt, if given by personal delivery; on the next business day following consignment for overnight delivery if sent by overnight delivery service; on the third business day following deposit into the United States mail, if sent by registered or certified mail; or upon confirmation of transmission if sent by facsimile transmission. In the event any date on which any notice or election is required to be made hereunder falls on a Saturday, Sunday or federal holiday, then, the date on which such notice is required to be given or made hereunder shall, for all purposes, be deemed to be the next following business day. However, all notices relating to (i) defaults or claims of default under this Agreement, (ii) change of notice address, or (iii) request of arbitration shall be made by personal delivery against receipt or forwarded by registered or certified mail, return receipt requested and in such event shall be deemed delivered upon the date of the receipt or such Owner's rejection of delivery. An Owner or Mortgagee may request in writing that it be provided with telecopy delivery of copies of any notices required hereunder.

19.2 Multiple Owners. If at any time the interest or estate of Hotel Owner or Retail Owner shall be owned by more than one Person (hereinafter collectively referred to as "**Multiple Owners**"), the Multiple Owners shall give to the other Owners a written notice, executed and acknowledged by all of the Multiple Owners, in form proper for recording, which shall (a) designate one Person having an address in the State of Illinois to whom shall be given, as agent for all of the Multiple Owners, all notices thereafter given to the Multiple Owners, and (b) designate such Person as agent for the service of process if any action or proceeding, whether before a court or by arbitration, involving the determination or enforcement of any rights or obligations hereunder. Thereafter, until such designation is revoked by written notice given by all of the Multiple Owners or their successors in interest, any notice, and any summons, complaint or other legal process or notice given in connection with an arbitration proceeding (which such summonses, complaints, legal processes and notices given in connection with arbitration proceedings are hereafter in this **Article XIX** collectively referred to as "**legal process**"), given to, or served upon, such agent shall be deemed to have been given to, or served upon, each and every one of the Multiple Owners at the same time that such notice or legal process is given to, or served upon, such agent. If the Multiple Owners shall fail so to designate in writing one such agent to whom all notices are to be given and upon whom all legal process is to be served, or if such designation shall be revoked as aforesaid and a new agent is not designated, then any notice or legal process may be given to, or served upon, any one of the Multiple Owners as agent for all of the Multiple Owners and such notice or legal process shall be deemed to have been given to, or served upon, each and every one of the Multiple Owners at the same time that such notice or legal process is given to, or served upon, any one of them, and each of the Multiple Owners shall be deemed to have appointed each of the other Multiple Owners as agent for the receipt of notices and the service of legal process as stated above.

ARTICLE XX

GENERAL

20.1 Cooperation of Owners. In fulfilling obligations and exercising rights under this Agreement, each Owner shall cooperate with the other Owner to promote the efficient operation of each respective portion of the Project and the harmonious relationship among the Owners. To that end, (A) each Owner shall share information which it possesses relating to matters which are the subject of this Agreement, except such information as such Owner may reasonably deem confidential or which such Owner is prohibited from revealing by law or pursuant to a contractual obligation or which may be the subject of litigation and which such Owner is prohibited from revealing pursuant to court order and (B) each Owner shall provide the other Owner and its Mortgagee a written notice from time to time designating the applicable Person who will be reasonable for the coordination of and day-to-day operation of such Owner's responsibilities to the other Owner under and pursuant to this Agreement and each Owner shall have the right, in its sole discretion, to remove such Person or appoint a different Person hereunder and in no event shall notice to such Person relieve an Owner from the notice provisions of **Section 19.1**. From time to time after the date hereof, each Owner shall furnish, execute and acknowledge, without charge (except where elsewhere provided herein) such other instruments, documents, materials and information as another Owner may reasonably request in order to confirm to such requesting Owner the benefits contemplated hereby, but only so long as any such request does not restrict or abridge the benefits granted the other Owner hereunder.

20.2 Severability. The illegality, invalidity or unenforceability under law of any covenant, restriction or condition or any other provision of this Agreement shall not impair or affect in any manner the validity, enforceability or effect of the remaining provisions of this Agreement.

20.3 Amendments to Agreement. Except as otherwise specifically provided in this Agreement this Agreement may be amended or terminated only by an instrument signed by each of the then Owners and consented to by the Mortgagees in writing. Any amendment to or termination of this Agreement shall be recorded with the Recorder.

20.4 Term. The covenants, conditions and restrictions contained in this Agreement shall be enforceable by the Owners and their respective successors and assigns for the term of this Agreement which shall be perpetual (or if the law provides for a time limit on any covenant, condition, or restriction, then such covenant, condition or restriction shall be enforceable for such shorter period permitted by Law), subject to amendment or termination as set forth in **Section 20.3**. If the law provides for such shorter period, then upon expiration of such shorter period, said covenants, conditions and restrictions shall be automatically extended without further act or deed of the Owners, except as may be required by Law, for successive periods of ten (10) years, subject to amendment or termination as set forth in **Section 20.3**.

20.5 Construction of Agreement. The provisions of this Agreement shall be construed to the end that the Project shall remain a first-class retail and hotel property.

20.6 Abandonment of Easements. Easements created hereunder shall not be presumed abandoned by non-use or the occurrence of damage or destruction of a portion of the

Project subject to an Easement unless the Owner benefitted by such Easement states in writing its intention to abandon the Easement.

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

20.8 Signage and Name of Project. Exterior signage for the Project and the occupants of the Project shall comply with all applicable Laws. Except with the prior written consent of all Owners which may be withheld by any Owner in its sole discretion, there shall be no banners, temporary signs or similar types of signage on or visible from the exterior of the Building. The contents, color and appearance of exterior signs shall be consistent with the operation of a first-class building in Chicago. In the event of any dispute as to whether any exterior sign is appropriate under the criteria of this Agreement the question may be submitted by any party hereto to the Architect for his determination, which determination shall be final and binding. Subject to the right of Hotel Owner and its manager or franchiser to utilize its trademarks and logos, the parties shall use reasonable efforts to utilize consistent graphics throughout the Project.

20.9 No Third-Party Beneficiary. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary (except the Mortgagees to the extent such Mortgagees are expressly granted rights, remedies, benefits or obligations under this Agreement) under any Laws or otherwise.

20.10 Incorporation; Headings. Each provision of the Recitals to this Agreement and each Exhibit attached hereto is hereby incorporated in this Agreement and is an integral part hereof. The headings of Articles and Sections in this Agreement are for convenience of reference only and shall not in any way limit or define the content, substance, or effect of the Articles or Sections.

20.11 Notice to Mortgagees; Rights of Mortgagees.

(A) The term "**Mortgage**" as used herein shall mean any mortgage (or any mortgage by way of trust deed), or assignment thereof (as any such mortgage or trust deed may be amended, supplemented, consolidated or modified), recorded with the Recorder and given by an Owner primarily to secure the repayment of money owed by such Owner and constituting a mortgage lien on such Owner's Parcel, and the term "**Mortgagee**" as used herein shall mean the mortgagee, and its successors and assigns, under any such Mortgage (or the beneficiary, and its successors and assigns, under any such trust deed). Nothing contained in this Agreement shall prohibit or be deemed to prohibit any party from granting, executing or delivering a Mortgage, from exercising its rights to foreclose on a Mortgage, or from conveying its Parcel pursuant to a deed-in-lieu of foreclosure.

(B) Except to the extent expressly provided herein to the contrary, any Mortgage covering any portion of any Parcel shall be subject and subordinate to the terms and provisions of this Agreement and each party shall, if there are any prior Mortgages encumbering its Parcel, obtain

the necessary consents from any holder of such a Mortgage in order to subordinate the Mortgage to this Agreement and any amendments hereto.

(C) If a Mortgagee of an Owner shall have served on the other Owner, in accordance with the notice provisions of this Agreement, a written notice specifying the name and address of such Mortgagee, such Mortgagee shall be given a copy of each and every notice required to be given by such Owner to the other at the same time and in the fashion required under this Agreement as and whenever such notice shall thereafter be given by such Owner to the other, at the address last furnished by such Mortgagee. If a Mortgage so provides or otherwise requires, and notice thereof is given by the Mortgagee as provided above, such Mortgagee shall be given the right to exercise such rights and in such event the other Owner shall be entitled to rely on the actions taken by such Mortgagee as the actions of the Owner granting such authority, and no further consent or approval or evidence thereof on behalf of such Owner shall be required.

(D) Notwithstanding anything to the contrary specified in this Agreement (including this Section 20.11), no Owner need give any notice to any mortgagee or trustee under a mortgage or trust deed other than a "Mortgagee" as defined in paragraph (A) above.

(E) A Mortgagee shall have the right to cure a default under this Agreement by the Owner of the portion of the Project mortgaged to such Mortgagee for a period not to exceed thirty (30) days after expiration of the applicable cure period provided to such Owner pursuant to the terms of this Agreement; provided, however, in no event shall the Creditor Owner have an obligation to provide a supplemental or additional notice to a Defaulting Owner or its Mortgagee after the expiration of such cure period without cure of such failure.

20.12 Sole Agreement. This agreement constitutes all of the obligations between Hotel Owner and Retail Owner as of the date hereof with respect to the subject matter of this Agreement, and Hotel Owner and Retail Owner each agree that as of the date hereof the only interests which they may have in the portion of the Project owned by the other Owner shall be under this Agreement.

20.13 Easement Rights. (A) Each of the Easements and rights created by this Agreement is appurtenant to the Parcel to which it relates and may not be transferred, assigned or encumbered except as an appurtenance to such Parcel.

(B) All easements granted in this Agreement are superior to all future leases, sales, conveyances, transfers, assignments, contracts, Mortgages and other liens, encumbrances and documents in any way affecting any portion of the Project and to all present Mortgages. Any Person foreclosing any such Mortgage and any Person acquiring title or an interest in any portion of the Project as a result thereof shall acquire and hold the title to such portion subject to such easements and the covenants, conditions, agreements, and restrictions declared in this Agreement and all amendments, modifications, and supplements hereto.

20.14 Interests in Real Property, No Executory Contract. All of the Easements, covenants and restrictions set forth in this Agreement shall run with the land and benefit and burden the respective Parcels, as applicable. The rights and interests granted or established hereunder are rights and interests in real property and neither this Agreement nor any of the covenants or agreements herein shall be deemed to be executory contracts. It is the intention of the parties that

the negative covenants, restrictions and obligations hereunder shall be integral to the Easements, rights and benefits of this Agreement and no Owner shall be benefitted by the Easements and benefits created by this Agreement without also being subject to each of the burdens and obligations imposed hereunder.

ARTICLE XXI

EXCULPATION

21.1 Non-Recourse. Notwithstanding anything to the contrary herein, the parties hereto agree that they shall each look solely to the other party's interest in the Property or Owned Facilities (including sale, insurance and condemnation proceeds thereof) and, except as specifically set forth in this Section 21.1, not other assets of such Owner, for satisfaction of any liability of such other party under or with respect to this Agreement. This Section 21.1 shall not, however, (i) constitute a waiver of or release or impair any obligation evidenced by any other agreement, (ii) limit the right to name any Owner as a party defendant in any action or suit for judicial foreclosure and sale under a lien imposed under and pursuant to this Agreement, so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against such Owner, or (iii) relieve an Owner or any other person from any liability for any act of fraud. Nothing herein shall be deemed to be a waiver of any right which an Owner may have under the Bankruptcy Reform Act of 1994 and the United States Bankruptcy Code, as amended from time to time, to file a claim for the full amount of any debt owing.

21.2 Assignment and Transfer. From and after the date of any sale or transfer by an Owner of its entire interest in its portion of the Property (A) such Owner shall be and hereby is relieved and freed of all agreements, obligations and undertakings of such Owner to be performed under this Agreement from and after the date of such sale or transfer, and (B) the Person who succeeds to such Owner's interest in such portion of the Property shall be deemed to have assumed any and all of the covenants and obligations arising under this Agreement of such Owner which accrue under this Agreement from and after the date such Owner shall sell, assign, transfer, convey or otherwise dispose of its interest in such Property. The foregoing shall not release the transferring Owner's interest in the Project from any accrued claims or liabilities existing at the time of any such sale or transfer; provided, however, that the grantee or transferee of an Owner's interest in the Project by reason of foreclosure or deed-in-lieu of foreclosure will not be subject to such accrued claims or liabilities or any lien related thereto.

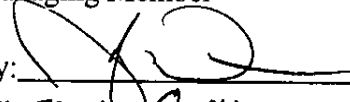
21.3 Limitation of Land Trustee Owner Liability. If this Agreement or any amendment to this Agreement is executed by a land trust as an Owner, this Agreement is executed by the Trustee of any such land trust, not personally, but as Trustee under the trust agreement creating such land trust. All of the covenants and conditions to be performed by it hereunder are undertaken solely as trustee, as aforesaid, and not individually, and no personal liability shall be asserted or be enforceable against it by reason of any of the covenants or agreements contained herein. The owner of any indebtedness of, or right accruing against, any such Trustee shall look solely to the property which is the subject matter of such trust for the payment or enforcement thereof. This Section 21.3 shall not be deemed to waive or limit any liability of any beneficiary of any such land trust and any such beneficiary shall be subject to all of the obligations and liability of an Owner hereunder, subject to the limitations set forth in Sections 21.1 and 21.2.

IN WITNESS WHEREOF, the partes hereto have executed this Agreement the day and year first above written.

RN 540 HOTEL COMPANY, L.L.C., a Delaware limited liability company

By: **RN LAND DEVELOPMENT COMPANY, L.L.C.**, a Delaware limited liability company, its managing member

By: **BUCK RIVER NORTH L.L.C.**, a Delaware limited liability company, a Managing Member


By: 
Its: JOHN P. O'DONNELL
One of Its Co-Managers

Chicago 540 Hotel, L.L.C., a Delaware limited liability company

By: **LHO Carlyle 540, L.L.C.**, a Delaware limited liability company

By: **LaSalle Hotel Operating Partnership, L.P.**, a Delaware limited partnership

By: **LaSalle Hotel Properties**, its general partner

By: 
Its: Chief Operating Officer

Property of Cook County Clerk's Office

UNOFFICIAL COPY

00072925

THE STATE OF ILLINOIS §
§
COUNTY OF COOK §

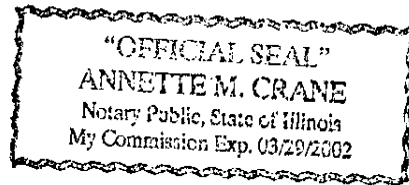
Before me, **Annette M. Crane**, a Notary Public, this 24th day of January, 2000, personally appeared **JOHN Q. O'DONNELL**, a Co-Manager of Buck River North L.L.C., a Managing Member of RN Land Development Company, L.L.C., the managing member of RN Hotel Company, L.L.C., a Delaware limited liability company, and acknowledged the execution of the foregoing instrument.

Annette M. Crane

NOTARY PUBLIC

[Seal]

My Commission Expires:
March 29, 2002



THE STATE OF Illinois §
§
COUNTY OF Cook §

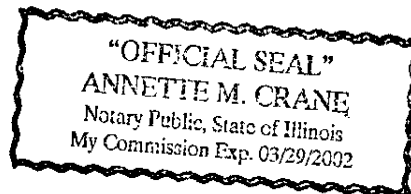
Before me, **ANNETTE M. CRANE**, a Notary Public this 29th day of January, 2000, personally appeared **MICHAEL D. BARDELL**, the **CHIEF OPERATING OFFICER** of LaSalle Hotel Properties, the general partner of LaSalle Hotel Operating Partnership L.P., a member of LHO Carlyle 540, L.L.C., a member of Chicago 540 Hotel, L.L.C., and acknowledged the execution of the foregoing instrument.

Annette M. Crane

NOTARY PUBLIC

[Seal]

My Commission Expires:
March 29, 2002



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LIST OF EXHIBITS TO RECIPROCAL EASEMENT AGREEMENT

Exhibit Letter or Number	<u>Description</u>
A.	Project Site
B.	Hotel Parcel
C.	Retail Parcel
D.	Intentionally Deleted
E.	Intentionally Deleted
F.	Survey
G.	Sign Easement Location
H.	Use Restrictions
I.	Exterior Bustic Facade Information

UNOFFICIAL COPY

00072925

EXHIBIT A

LEGAL DESCRIPTION OF THE PROJECT SITE

BLOCK 22 (EXCEPT THE EAST 75 FEET THEREOF TAKEN FOR THE WIDENING OF NORTH MICHIGAN AVENUE) IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 540 NORTH MICHIGAN AVENUE, CHICAGO, ILLINOIS.

P.I.N.: 17-10-121 005-0000

Property of Cook County Clerk's Office

EXHIBIT B

LEGAL DESCRIPTION OF HOTEL PARCEL

BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT (AND HEREINAFTER REFERRED TO AS THE MAIN TRACT) IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, (EXCEPT FROM SAID MAIN TRACT

(A-1)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 16.12 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 4.22 FEET; THENCE NORTHWESTERLY 31.62 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 15.39 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS NORTH 55° 43' 49" WEST 26.34 FEET; THENCE SOUTH 90° 00' 00" EAST 4.05 FEET; THENCE NORTH 00° 00' 00" EAST 5.30 FEET; THENCE NORTH 90° 00' 00" WEST 70.31 FEET; THENCE NORTH 00° 00' 00" EAST 6.07 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT; THENCE SOUTH 90° 00' 00" EAST ALONG THE NORTH LINE OF SAID TRACT 94.20 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS;

ALSO EXCEPT FROM SAID MAIN TRACT

(A-2)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 19.05 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 4.22 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00° 00' 00" WEST 8.65 FEET; THENCE NORTH 90° 00' 00" WEST 25.95 FEET; THENCE SOUTH 00° 00' 00" WEST 23.90 FEET; THENCE SOUTH 90° 00'

00" EAST 8.71 FEET; THENCE SOUTH 00° 00' 00" WEST 5.00 FEET; THENCE SOUTH 90° 00' 00" EAST 23.22 FEET TO A POINT ON THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 33.18 FEET; THENCE NORTH 90° 00' 00" WEST 77.96 FEET; THENCE NORTH 00° 00' 00" EAST 7.83 FEET; THENCE NORTH 90° 00' 00" WEST 15.59 FEET; THENCE NORTH 00° 00' 00" EAST 36.40 FEET; THENCE NORTH 90° 00' 00" WEST 15.04 FEET; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE SOUTH 90° 00' 00" EAST 11.72 FEET; THENCE NORTH 00° 00' 00" EAST 21.72 FEET; THENCE SOUTH 90° 00' 00" EAST 4.75 FEET; THENCE NORTH 00° 00' 00" EAST 6.00 FEET; THENCE SOUTH 90° 00' 00" EAST 27.43 FEET; THENCE NORTH 00° 00' 00" EAST 11.40 FEET; THENCE SOUTH 90° 00' 00" EAST 41.08 FEET; THENCE SOUTH 00° 00' 00" WEST 5.30 FEET; THENCE NORTH 90° 00' 00" WEST 4.05 FEET; THENCE SOUTHEASTERLY 31.62 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 15.39 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS SOUTH 55° 43' 49" EAST 26.34 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS;

ALSO EXCEPT FROM SAID MAIN TRACT

(A-3)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 26.84 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 14.65 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 4.22 FEET; THENCE SOUTH 00° 00' 00" WEST 8.65 FEET; THENCE NORTH 90° 00' 00" WEST 25.95 FEET; THENCE SOUTH 00° 00' 00" WEST 23.90 FEET; THENCE SOUTH 90° 00' 00" EAST 8.71 FEET; THENCE SOUTH 00° 00' 00" WEST 5.00 FEET; THENCE SOUTH 90° 00' 00" EAST 23.22 FEET TO A POINT ON THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 33.18 FEET; THENCE NORTH 90° 00' 00" WEST 77.96 FEET; THENCE NORTH 00° 00' 00" EAST 7.83 FEET; THENCE NORTH 90° 00' 00" WEST 15.59 FEET; THENCE NORTH 00° 00' 00" EAST 36.40 FEET; THENCE NORTH 90° 00' 00" WEST 15.04 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE SOUTH 90° 00' 00" EAST 11.72 FEET; THENCE NORTH 00° 00' 00" EAST 21.72 FEET; THENCE SOUTH 90° 00' 00" EAST 4.75 FEET; THENCE NORTH 00° 00' 00" EAST 6.00 FEET; THENCE NORTH 90° 00' 00" WEST 1.46 FEET; THENCE NORTHWESTERLY 24.80 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 18.44 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS NORTH 50° 56' 50" WEST 22.97 FEET; THENCE NORTH 00° 00' 00" EAST 3.00 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT; THENCE NORTH 90° 00' 00" WEST ALONG THE NORTH LINE OF SAID TRACT 42.35 FEET; THENCE SOUTH 00° 00' 00" WEST 13.53 FEET; THENCE NORTH 89° 59' 14" WEST 1.01 FEET; THENCE SOUTH 00° 00' 00" WEST 40.72 FEET; THENCE SOUTH 90° 00' 00" EAST 35.57 FEET; THENCE NORTH 00° 00' 00" EAST 1.55 FEET; THENCE SOUTH 90° 00' 00" EAST 10.62 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS;

ALSO EXCEPT FROM SAID MAIN TRACT

(A-4)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 21.72 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 19.05 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 4.22 FEET; THENCE NORTHWESTERLY 31.62 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 15.39 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS NORTH 55° 43' 49" WEST 26.34 FEET; THENCE SOUTH 90° 00' 00" EAST 4.05 FEET; THENCE NORTH 00° 00' 00" EAST 5.30 FEET; THENCE NORTH 90° 00' 00" WEST 41.08 FEET; THENCE NORTH 90° 00' 00" WEST 5.56 FEET; THENCE NORTH 90° 00' 00" WEST 7.57 FEET TO THE POINT OF BEGINNING; THENCE NORTH 90° 00' 00" WEST 3.83 FEET; THENCE SOUTH 00° 00' 00" WEST 11.40 FEET; THENCE SOUTH 90° 00' 00" EAST 3.83 FEET; THENCE NORTH 00° 00' 00" EAST 11.40 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS;

ALSO EXCEPT FROM SAID MAIN TRACT

(A-5)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 24.95 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 19.05 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 4.22 FEET; THENCE NORTHWESTERLY 31.62 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 15.39 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS NORTH 55° 43' 49" WEST 26.34 FEET; THENCE SOUTH 90° 00' 00" EAST 4.05 FEET; THENCE NORTH 00° 00' 00" EAST 5.30 FEET; THENCE NORTH 90° 00' 00" WEST 41.08 FEET; THENCE NORTH 90° 00' 00" WEST 5.56 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00° 00' 00" WEST 11.40 FEET; THENCE NORTH 90° 00' 00" WEST 7.57 FEET; THENCE NORTH 00° 00' 00" EAST 11.40 FEET; THENCE SOUTH 90° 00' 00" EAST 7.57 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS;

ALSO EXCEPT FROM SAID MAIN TRACT

(A-6)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 26.25 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 19.05 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 4.22 FEET; THENCE NORTHWESTERLY 31.62 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 15.39 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS NORTH 55° 43' 49" WEST 26.34 FEET; THENCE SOUTH 90° 00' 00" EAST 4.05 FEET; THENCE NORTH 00° 00' 00" EAST 5.30 FEET; THENCE NORTH 90° 00' 00" WEST 41.08 FEET TO THE POINT OF BEGINNING; THENCE NORTH 90° 00' 00" WEST 5.56 FEET; THENCE SOUTH 00° 00' 00" WEST 11.40 FEET; THENCE SOUTH 90° 00' 00" EAST 5.56 FEET; THENCE NORTH 00° 00' 00" EAST 11.40 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS;

ALSO EXCEPT FROM SAID MAIN TRACT

(A-7)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 16.12 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET TO THE POINT OF BEGINNING; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 41.77 FEET; THENCE SOUTH 90° 00' 00" EAST 5.98 FEET TO A POINT ON THE EAST LINE OF SAID TRACT; THENCE NORTH 00° 10' 00" EAST ALONG THE EAST LINE OF SAID TRACT 41.77 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS;

ALSO EXCEPT FROM SAID MAIN TRACT

(A-8)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 59.98 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 37.36 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 25.02 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 165.06 FEET; THENCE NORTH 90° 00' 00" WEST 33.03 FEET; THENCE SOUTH 00° 00' 00" WEST 7.70 FEET; THENCE NORTH 90° 00' 00" WEST 8.33 FEET; THENCE NORTH 00° 00' 00" EAST 2.09 FEET; THENCE NORTH 90° 00' 00" WEST 12.50 FEET; THENCE SOUTH 00° 00' 00" WEST 22.58 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89° 58' 55" WEST ALONG THE SOUTH LINE OF SAID TRACT, 112.05 FEET; THENCE NORTH 00° 00' 00" EAST 64.01 FEET; THENCE SOUTH 90° 00' 00" EAST 7.23 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 90° 00' 00" EAST 41.74 FEET; THENCE NORTH 00° 00' 00" EAST 100.60 FEET; THENCE NORTH 90° 00' 00" WEST 38.74 FEET; THENCE SOUTH 00° 00' 00" WEST 8.15 FEET; THENCE NORTH 90° 00' 00" WEST 3.00 FEET; THENCE SOUTH 00° 00' 00" WEST 92.45 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO EXCEPT FROM SAID MAIN TRACT

(A-9)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL

QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 50.64 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 3.37 FEET; THENCE NORTH 90° 00' 00" WEST 78.00 FEET; THENCE SOUTH 00° 00' 00" WEST 14.20 FEET; THENCE SOUTH 90° 00' 00" EAST 45.87 FEET; THENCE SOUTH 00° 00' 00" WEST 7.45 FEET; THENCE SOUTH 90° 00' 00" EAST 32.07 FEET TO A POINT ON THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 165.06 FEET; THENCE NORTH 90° 00' 00" WEST 33.03 FEET; THENCE SOUTH 00° 00' 00" WEST 7.70 FEET; THENCE NORTH 90° 00' 00" WEST 8.33 FEET; THENCE NORTH 00° 00' 00" EAST 2.09 FEET; THENCE NORTH 90° 00' 00" WEST 12.50 FEET; THENCE SOUTH 00° 00' 00" WEST 22.58 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89° 58' 55" WEST ALONG THE SOUTH LINE OF SAID TRACT, 112.05 FEET; THENCE NORTH 00° 00' 00" EAST 64.01 FEET; THENCE SOUTH 90° 00' 00" EAST 48.97 FEET; THENCE NORTH 00° 00' 00" EAST 101.60 FEET; THENCE SOUTH 90° 00' 00" EAST 8.62 FEET; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE SOUTH 90° 00' 00" EAST 11.72 FEET; THENCE NORTH 00° 00' 00" EAST 19.44 FEET; THENCE NORTH 90° 00' 00" WEST 40.31 FEET; THENCE NORTH 00° 00' 00" EAST 12.49 FEET; THENCE SOUTH 90° 00' 00" EAST 5.75 FEET; THENCE NORTH 00° 00' 00" EAST 13.26 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT; THENCE SOUTH 90° 00' 00" EAST ALONG THE NORTH LINE OF SAID TRACT 131.72 FEET TO THE POINT OF BEGINNING (EXCEPT THAT PART THEREOF DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 25.02 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 10.66 FEET; THENCE NORTH 90° 00' 00" WEST 6.07 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00° 00' 00" WEST 18.65 FEET; THENCE NORTH 90° 00' 00" WEST 6.90 FEET; THENCE SOUTH 00° 00' 00" WEST 5.00 FEET; THENCE NORTH 90° 00' 00" WEST 19.12 FEET; THENCE NORTH 00° 00' 00" EAST 23.65 FEET; THENCE SOUTH 90° 00' 00" EAST 26.02 FEET TO THE POINT OF BEGINNING), IN COOK COUNTY, ILLINOIS.

ALSO EXCEPT FROM SAID MAIN TRACT
(A-10)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 47.57 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 25.02 FEET; THENCE SOUTH 00° 10' 00"

WEST ALONG THE EAST LINE OF SAID TRACT 165.06 FEET; THENCE NORTH 90° 00' 00" WEST 33.03 FEET; THENCE SOUTH 00° 00' 00" WEST 7.70 FEET; THENCE NORTH 90° 00' 00" WEST 8.33 FEET; THENCE NORTH 00° 00' 00" EAST 2.09 FEET; THENCE NORTH 90° 00' 00" WEST 12.50 FEET; THENCE SOUTH 00° 00' 00" WEST 22.58 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89° 58' 55" WEST ALONG THE SOUTH LINE OF SAID TRACT, 112.05 FEET; THENCE NORTH 00° 00' 00" EAST 64.01 FEET; THENCE SOUTH 90° 00' 00" EAST 48.97 FEET; THENCE NORTH 00° 00' 00" EAST 101.60 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 90° 00' 00" EAST 8.62 FEET; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE SOUTH 90° 00' 00" EAST 11.72 FEET; THENCE NORTH 00° 00' 00" EAST 19.44 FEET; THENCE NORTH 90° 00' 00" WEST 40.31 FEET; THENCE NORTH 00° 00' 00" EAST 12.49 FEET; THENCE SOUTH 90° 00' 00" EAST 5.75 FEET; THENCE NORTH 00° 00' 00" EAST 13.26 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT; THENCE NORTH 90° 00' 00" WEST ALONG THE NORTH LINE OF SAID TRACT 24.51 FEET; THENCE SOUTH 00° 00' 00" WEST 53.70 FEET; THENCE SOUTH 90° 00' 00" EAST 38.74 FEET; THENCE NORTH 00° 00' 00" EAST 1.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO EXCEPT FROM SAID MAIN TRACT
(B-1)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 22.94 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 119.83 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 36.00 FEET; THENCE NORTH 90° 00' 00" WEST 24.82 FEET; THENCE SOUTH 00° 00' 00" WEST 10.26 FEET; THENCE SOUTH 90° 00' 00" EAST 24.79 FEET TO THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 5.85 FEET TO POINT OF BEGINNING; THENCE NORTH 90° 00' 00" WEST 60.67 FEET; THENCE NORTH 00° 00' 00" EAST 16.41 FEET; THENCE NORTH 90° 00' 00" WEST 16.28 FEET; THENCE SOUTH 00° 00' 10" WEST 51.74 FEET; THENCE SOUTH 90° 00' 00" EAST 6.77 FEET; THENCE NORTH 53° 18' 52" EAST 9.91 FEET; THENCE SOUTH 90° 00' 00" EAST 13.31 FEET; THENCE SOUTH 00° 00' 00" WEST 16.93 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE NORTH 89° 58' 55" EAST ALONG THE SOUTH LINE OF SAID TRACT 48.79 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE NORTH 00° 10' 00" EAST ALONG THE EAST LINE OF SAID TRACT 46.32 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS;

ALSO EXCEPT FROM SAID MAIN TRACT
(B-2)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S

ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 21.12 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 119.83 FEET TO POINT OF BEGINNING; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 36.00 FEET; THENCE NORTH 90° 00' 00" WEST 24.82 FEET; THENCE SOUTH 00° 00' 00" WEST 10.26 FEET; THENCE SOUTH 90° 00' 00" EAST 24.79 FEET TO THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 5.85 FEET; THENCE NORTH 90° 00' 00" WEST 60.67 FEET; THENCE NORTH 00° 00' 00" EAST 16.41 FEET; THENCE NORTH 90° 00' 00" WEST 16.28 FEET; THENCE NORTH 00° 00' 00" EAST 28.26 FEET; THENCE NORTH 90° 00' 00" WEST 1.33 FEET; THENCE NORTH 00° 00' 00" EAST 4.55 FEET; THENCE SOUTH 90° 00' 00" EAST 1.33 FEET; THENCE NORTH 00° 00' 00" EAST 2.89 FEET; THENCE SOUTH 90° 00' 00" EAST 77.10 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS;

ALSO EXCEPT FROM SAID MAIN TRACT
(B-3)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 24.53 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 119.83 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 36.00 FEET; THENCE NORTH 90° 00' 00" WEST 24.82 FEET; THENCE SOUTH 00° 00' 00" WEST 10.26 FEET; THENCE SOUTH 90° 00' 00" EAST 24.79 FEET TO THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 5.85 FEET; THENCE NORTH 90° 00' 00" WEST 60.67 FEET; THENCE NORTH 00° 00' 00" EAST 16.41 FEET; THENCE NORTH 90° 00' 00" WEST 16.28 FEET; THENCE SOUTH 00° 00' 10" WEST 51.74 FEET TO POINT OF BEGINNING; THENCE SOUTH 90° 00' 00" EAST 6.77 FEET; THENCE SOUTH 00° 00' 00" WEST 11.02 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89° 58' 55" WEST ALONG THE SOUTH LINE OF SAID TRACT 6.77 FEET; THENCE NORTH 00° 00' 00" EAST 11.02 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO EXCEPT FROM SAID MAIN TRACT
(B-4)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 21.12 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 8.11 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 166.09 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00° 10' 00" WEST ALONG SAID EAST LINE 5.85 FEET; THENCE NORTH 90° 00' 00" WEST 41.95 FEET; THENCE NORTH 00° 00' 00" EAST 16.41 FEET; THENCE NORTH 90° 00' 00" WEST 9.88 FEET; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE NORTH 90° 00' 00" WEST 8.84 FEET; THENCE NORTH 00° 00' 00" EAST 30.23 FEET; THENCE SOUTH 90° 00' 00" EAST 1.50 FEET; THENCE NORTH 00° 00' 00" EAST 1.44 FEET; THENCE SOUTH 90° 00' 00" EAST 21.78 FEET; THENCE SOUTH 00° 00' 00" WEST 11.14 FEET; THENCE SOUTH 90° 00' 00" EAST 7.95 FEET; THENCE SOUTH 00° 00' 00" WEST 2.27 FEET; THENCE SOUTH 90° 00' 00" EAST 4.67 FEET; THENCE SOUTH 00° 00' 00" WEST 36.32 FEET; THENCE SOUTH 90° 00' 00" EAST 24.79 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO EXCEPT FROM SAID MAIN TRACT (B-5)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 21.12 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 9.18 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 166.09 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG SAID EAST LINE 5.85 FEET; THENCE NORTH 90° 00' 00" WEST 41.95 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 00' 00" EAST 16.41 FEET; THENCE NORTH 90° 00' 00" WEST 9.88 FEET; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE NORTH 90° 00' 00" WEST 8.84 FEET; THENCE SOUTH 00° 00' 00" WEST 23.91 FEET; THENCE SOUTH 90° 00' 00" EAST 18.72 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO EXCEPT FROM SAID MAIN TRACT (B-6)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD

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PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 22.94 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 119.83 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 36.00 FEET TO POINT OF BEGINNING; THENCE NORTH 90° 00' 00" WEST 24.82 FEET; THENCE SOUTH 00° 00' 00" WEST 10.26 FEET; THENCE SOUTH 90° 00' 00" EAST 24.79 FEET TO THE EAST LINE OF SAID TRACT; THENCE NORTH 00° 10' 00" EAST ALONG THE EAST LINE OF SAID TRACT 10.26 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS).

PROPERTY ADDRESS: 540 NORTH MICHIGAN AVENUE
CHICAGO, COOK COUNTY, ILLINOIS 60611

PROPERTY INDEX NUMBER: 17-10-121-005-0000

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EXHIBIT C

LEGAL DESCRIPTION OF RETAIL PARCEL

(A-1)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 16.12 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 4.22 FEET; THENCE NORTHWESTERLY 31.62 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 15.39 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS NORTH 55° 43' 49" WEST 26.34 FEET; THENCE SOUTH 90° 00' 00" EAST 4.05 FEET; THENCE NORTH 00° 00' 00" EAST 5.30 FEET; THENCE NORTH 90° 00' 00" WEST 10.31 FEET; THENCE NORTH 00° 00' 00" EAST 6.07 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT; THENCE SOUTH 90° 00' 00" EAST ALONG THE NORTH LINE OF SAID TRACT 94.20 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(A-2)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 19.05 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 4.22 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00° 00' 00" WEST 8.65 FEET; THENCE NORTH 90° 00' 00" WEST 25.95 FEET; THENCE SOUTH 00° 00' 00" WEST 23.90 FEET; THENCE SOUTH 90° 00' 00" EAST 8.71 FEET; THENCE SOUTH 00° 00' 00" WEST 5.00 FEET; THENCE SOUTH 90° 00' 00" EAST 23.22 FEET TO A POINT ON THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 33.18 FEET; THENCE NORTH 90° 00' 00" WEST 77.96 FEET; THENCE NORTH 00° 00' 00" EAST 7.83 FEET; THENCE NORTH 90° 00' 00" WEST 15.59 FEET; THENCE NORTH 00° 00' 00" EAST 36.40 FEET; THENCE NORTH 90° 00' 00" WEST 15.04 FEET; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE SOUTH 90° 00' 00" EAST 11.72 FEET; THENCE NORTH 00° 00' 00" EAST 21.72 FEET; THENCE SOUTH 90° 00' 00" EAST 4.75 FEET; THENCE NORTH 00° 00'

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00" EAST 6.00 FEET; THENCE SOUTH 90° 00' 00" EAST 27.43 FEET; THENCE NORTH 00° 00' 00" EAST 11.40 FEET; THENCE SOUTH 90° 00' 00" EAST 41.08 FEET; THENCE SOUTH 00° 00' 00" WEST 5.30 FEET; THENCE NORTH 90° 00' 00" WEST 4.05 FEET; THENCE SOUTHEASTERLY 31.62 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 15.39 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS SOUTH 55° 43' 49" EAST 26.34 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(A-3)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 26.84 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 14.65 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 100° 00' 00" WEST 4.22 FEET; THENCE SOUTH 00° 00' 00" WEST 8.65 FEET; THENCE NORTH 90° 00' 00" WEST 25.95 FEET; THENCE SOUTH 00° 00' 00" WEST 23.90 FEET; THENCE SOUTH 90° 00' 00" EAST 8.71 FEET; THENCE SOUTH 00° 00' 00" WEST 5.00 FEET; THENCE SOUTH 90° 00' 00" EAST 23.22 FEET TO A POINT ON THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 33.18 FEET; THENCE NORTH 90° 00' 00" WEST 77.96 FEET; THENCE NORTH 00° 00' 00" EAST 7.83 FEET; THENCE NORTH 90° 00' 00" WEST 15.59 FEET; THENCE NORTH 00° 00' 00" EAST 36.40 FEET; THENCE NORTH 90° 00' 00" WEST 15.04 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE SOUTH 90° 00' 00" EAST 11.72 FEET; THENCE NORTH 00° 00' 00" EAST 21.72 FEET; THENCE SOUTH 90° 00' 00" EAST 4.75 FEET; THENCE NORTH 00° 00' 00" EAST 6.00 FEET; THENCE NORTH 90° 00' 00" WEST 1.46 FEET; THENCE NORTHWESTERLY 24.80 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 13.44 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS NORTH 50° 56' 50" WEST 22.97 FEET; THENCE NORTH 00° 00' 00" EAST 3.00 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT; THENCE NORTH 90° 00' 00" WEST ALONG THE NORTH LINE OF SAID TRACT 42.35 FEET; THENCE SOUTH 00° 00' 00" WEST 13.53 FEET; THENCE NORTH 89° 59' 14" WEST 1.01 FEET; THENCE SOUTH 00° 00' 00" WEST 40.72 FEET; THENCE SOUTH 90° 00' 00" EAST 35.57 FEET; THENCE NORTH 00° 00' 00" EAST 1.55 FEET; THENCE SOUTH 90° 00' 00" EAST 10.62 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(A-4)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 21.72 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 19.05 FEET ABOVE CHICAGO CITY DATUM AND

LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 4.22 FEET; THENCE NORTHWESTERLY 31.62 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 15.39 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS NORTH 55° 43' 49" WEST 26.34 FEET; THENCE SOUTH 90° 00' 00" EAST 4.05 FEET; THENCE NORTH 00° 00' 00" EAST 5.30 FEET; THENCE NORTH 90° 00' 00" WEST 41.08 FEET; THENCE NORTH 90° 00' 00" WEST 5.56 FEET; THENCE NORTH 90° 00' 00" WEST 7.57 FEET TO THE POINT OF BEGINNING; THENCE NORTH 90° 00' 00" WEST 3.83 FEET; THENCE SOUTH 00° 00' 00" WEST 11.40 FEET; THENCE SOUTH 90° 00' 00" EAST 3.83 FEET; THENCE NORTH 00° 00' 00" EAST 11.40 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(A-5)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 24.95 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 19.05 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 4.22 FEET; THENCE NORTHWESTERLY 31.62 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 15.39 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS NORTH 55° 43' 49" WEST 26.34 FEET; THENCE SOUTH 90° 00' 00" EAST 4.05 FEET; THENCE NORTH 00° 00' 00" EAST 5.30 FEET; THENCE NORTH 90° 00' 00" WEST 41.08 FEET; THENCE NORTH 90° 00' 00" WEST 5.56 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00° 00' 00" WEST 11.40 FEET; THENCE NORTH 90° 00' 00" WEST 7.57 FEET; THENCE NORTH 00° 00' 00" EAST 11.40 FEET; THENCE SOUTH 90° 00' 00" EAST 7.57 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(A-6)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 26.25 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 19.05 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 4.22 FEET; THENCE NORTHWESTERLY 31.62 FEET ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 15.39 FEET, CONVEX SOUTHWESTERLY AND WHOSE CHORD BEARS NORTH 55° 43' 49" WEST 26.34 FEET; THENCE SOUTH 90° 00' 00" EAST 4.05 FEET; THENCE NORTH 00° 00' 00" EAST 5.30 FEET; THENCE NORTH 90° 00' 00" WEST 41.08 FEET TO THE POINT OF BEGINNING; THENCE NORTH 90° 00' 00" WEST 5.56 FEET; THENCE SOUTH 00° 00' 00" WEST 11.40 FEET; THENCE SOUTH 90° 00' 00" EAST 5.56 FEET; THENCE NORTH 00° 00' 00" EAST 11.40 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(A-7)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 16.12 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 21.98 FEET TO THE POINT OF BEGINNING; THENCE NORTH 90° 00' 00" WEST 6.11 FEET; THENCE SOUTH 00° 00' 00" WEST 41.77 FEET; THENCE SOUTH 90° 00' 00" EAST 5.98 FEET TO A POINT ON THE EAST LINE OF SAID TRACT; THENCE NORTH 00° 10' 00" EAST ALONG THE EAST LINE OF SAID TRACT 41.77 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(A-8)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 59.98 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 37.36 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 25.02 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 165.06 FEET; THENCE NORTH 90° 00' 00" WEST 33.03 FEET; THENCE SOUTH 00° 00' 00" WEST 7.70 FEET; THENCE NORTH 90° 00' 00" WEST 8.33 FEET; THENCE NORTH 00° 00' 00" EAST 2.09 FEET; THENCE NORTH 90° 00' 00" WEST 12.50 FEET; THENCE SOUTH 00° 00' 00" WEST 22.58 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89° 58' 55" WEST ALONG THE SOUTH LINE OF SAID TRACT, 112.05 FEET; THENCE NORTH 00° 00' 00" EAST 64.01 FEET; THENCE SOUTH 90° 00' 00" EAST 7.23 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 90° 00' 00" EAST 41.74 FEET; THENCE NORTH 00° 00' 00" EAST 100.60 FEET;

THENCE NORTH 90° 00' 00" WEST 38.74 FEET; THENCE SOUTH 00° 00' 00" WEST 8.15 FEET; THENCE NORTH 90° 00' 00" WEST 3.00 FEET; THENCE SOUTH 00° 00' 00" WEST 92.45 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(A-9)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 50.64 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 3.37 FEET; THENCE NORTH 90° 00' 00" WEST 78.00 FEET; THENCE SOUTH 00° 00' 00" WEST 14.20 FEET; THENCE SOUTH 90° 00' 00" EAST 45.87 FEET; THENCE SOUTH 00° 00' 00" WEST 7.45 FEET; THENCE SOUTH 90° 00' 00" EAST 32.07 FEET TO A POINT ON THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 165.06 FEET; THENCE NORTH 90° 00' 00" WEST 33.03 FEET; THENCE SOUTH 00° 00' 00" WEST 7.70 FEET; THENCE NORTH 90° 00' 00" WEST 8.33 FEET; THENCE NORTH 00° 00' 00" EAST 2.09 FEET; THENCE NORTH 90° 00' 00" WEST 12.50 FEET; THENCE SOUTH 00° 00' 00" WEST 22.58 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89° 58' 55" WEST ALONG THE SOUTH LINE OF SAID TRACT 112.05 FEET; THENCE NORTH 00° 00' 00" EAST 64.01 FEET; THENCE SOUTH 90° 00' 00" EAST 48.97 FEET; THENCE NORTH 00° 00' 00" EAST 101.60 FEET; THENCE SOUTH 90° 00' 00" EAST 8.62 FEET; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE SOUTH 90° 00' 00" EAST 11.72 FEET; THENCE NORTH 00° 00' 00" EAST 19.44 FEET; THENCE NORTH 90° 00' 00" WEST 40.31 FEET; THENCE NORTH 00° 00' 00" EAST 12.49 FEET; THENCE SOUTH 90° 00' 00" EAST 5.75 FEET; THENCE NORTH 00° 00' 00" EAST 13.26 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT; THENCE SOUTH 90° 00' 00" EAST ALONG THE NORTH LINE OF SAID TRACT 131.72 FEET TO THE POINT OF BEGINNING (EXCEPT THAT PART THEREOF DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 25.02 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 10.66 FEET; THENCE NORTH 90° 00' 00" WEST 6.07 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00° 00' 00" WEST 18.65 FEET; THENCE NORTH 90° 00' 00" WEST 6.90 FEET; THENCE SOUTH 00° 00' 00" WEST 5.00 FEET; THENCE NORTH 90° 00' 00" WEST 19.12 FEET; THENCE NORTH 00° 00' 00" EAST 23.65 FEET; THENCE SOUTH 90° 00' 00" EAST 26.02 FEET TO THE POINT OF BEGINNING), IN COOK COUNTY, ILLINOIS.

(A-10)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD

PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 47.57 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 25.02 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 165.06 FEET; THENCE NORTH 90° 00' 00" WEST 33.03 FEET; THENCE SOUTH 00° 00' 00" WEST 7.70 FEET; THENCE NORTH 90° 00' 00" WEST 8.33 FEET; THENCE NORTH 00° 00' 00" EAST 2.09 FEET; THENCE NORTH 90° 00' 00" WEST 12.50 FEET; THENCE SOUTH 00° 00' 00" WEST 22.58 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89° 58' 55" WEST ALONG THE SOUTH LINE OF SAID TRACT, 112.05 FEET; THENCE NORTH 00° 00' 00" EAST 64.01 FEET; THENCE SOUTH 90° 00' 00" EAST 48.97 FEET; THENCE NORTH 00° 00' 00" EAST 101.60 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 90° 00' 00" EAST 8.62 FEET; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE SOUTH 90° 00' 00" EAST 11.72 FEET; THENCE NORTH 00° 00' 00" EAST 19.44 FEET; THENCE NORTH 90° 00' 00" WEST 40.31 FEET; THENCE NORTH 00° 00' 00" EAST 12.49 FEET; THENCE SOUTH 90° 00' 00" EAST 5.75 FEET; THENCE NORTH 00° 00' 00" EAST 13.26 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT; THENCE NORTH 90° 00' 00" WEST ALONG THE NORTH LINE OF SAID TRACT 24.51 FEET; THENCE SOUTH 00° 00' 00" WEST 53.70 FEET; THENCE SOUTH 90° 00' 00" EAST 38.74 FEET; THENCE NORTH 00° 00' 00" EAST 1.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(B-1)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 22.94 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 119.83 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 36.00 FEET; THENCE NORTH 90° 00' 00" WEST 24.82 FEET; THENCE SOUTH 00° 00' 00" WEST 10.26 FEET; THENCE SOUTH 90° 00' 00" EAST 24.79 FEET TO THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 5.85 FEET TO POINT OF BEGINNING; THENCE NORTH 90° 00' 00" WEST 60.67 FEET; THENCE NORTH 00° 00' 00" EAST 16.41 FEET; THENCE NORTH 90° 00' 00" WEST 16.28 FEET; THENCE SOUTH 00° 00' 10" WEST 51.74 FEET; THENCE SOUTH 90° 00' 00" EAST 6.77 FEET; THENCE NORTH 53° 18' 52" EAST 9.91 FEET; THENCE SOUTH 90° 00' 00" EAST 13.31 FEET; THENCE SOUTH 00° 00' 00" WEST 16.93 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE NORTH 89° 58' 55" EAST ALONG THE SOUTH LINE OF SAID TRACT 48.79 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE NORTH 00° 10' 00" EAST ALONG THE EAST

LINE OF SAID TRACT 46.32 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(B-2)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 21.12 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 119.83 FEET TO POINT OF BEGINNING; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 36.00 FEET; THENCE NORTH 90° 00' 00" WEST 24.82 FEET; THENCE SOUTH 00° 00' 00" WEST 10.26 FEET; THENCE SOUTH 90° 00' 00" EAST 24.79 FEET TO THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 5.85 FEET; THENCE NORTH 90° 00' 00" WEST 60.67 FEET; THENCE NORTH 00° 00' 00" EAST 16.41 FEET; THENCE NORTH 90° 00' 00" WEST 16.28 FEET; THENCE NORTH 00° 00' 00" EAST 28.26 FEET; THENCE NORTH 90° 00' 00" WEST 1.33 FEET; THENCE NORTH 00° 00' 00" EAST 4.55 FEET; THENCE SOUTH 90° 00' 00" EAST 1.33 FEET; THENCE NORTH 00° 00' 00" EAST 2.89 FEET; THENCE SOUTH 90° 00' 00" EAST 77.10 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(B-3)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 24.53 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 119.83 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 36.00 FEET; THENCE NORTH 90° 00' 00" WEST 24.82 FEET; THENCE SOUTH 00° 00' 00" WEST 10.26 FEET; THENCE SOUTH 90° 00' 00" EAST 24.79 FEET TO THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 5.85 FEET; THENCE NORTH 90° 00' 00" WEST 60.67 FEET; THENCE NORTH 00° 00' 00" EAST 16.41 FEET; THENCE NORTH 90° 00' 00" WEST 16.28 FEET; THENCE SOUTH 00° 00' 10" WEST 51.74 FEET TO POINT OF BEGINNING; THENCE SOUTH 90° 00' 00" EAST 6.77 FEET; THENCE SOUTH 00° 00' 00" WEST 11.02 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89° 58' 55" WEST ALONG THE SOUTH LINE OF SAID TRACT 6.77 FEET; THENCE NORTH

00° 00' 00" EAST 11.02 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(B-4)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 21.12 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 8.11 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 166.09 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00° 10' 00" WEST ALONG SAID EAST LINE 5.85 FEET; THENCE NORTH 90° 00' 00" WEST 41.95 FEET; THENCE NORTH 00° 00' 00" EAST 16.41 FEET; THENCE NORTH 90° 00' 00" WEST 9.88 FEET; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE NORTH 90° 00' 00" WEST 8.84 FEET; THENCE NORTH 00° 00' 00" EAST 30.23 FEET; THENCE SOUTH 90° 00' 00" EAST 1.50 FEET; THENCE NORTH 00° 00' 00" EAST 1.44 FEET; THENCE SOUTH 90° 00' 00" EAST 21.78 FEET; THENCE SOUTH 00° 00' 00" WEST 11.14 FEET; THENCE SOUTH 90° 00' 00" EAST 7.95 FEET; THENCE SOUTH 00° 00' 00" WEST 2.27 FEET; THENCE SOUTH 90° 00' 00" EAST 4.67 FEET; THENCE SOUTH 00° 00' 00" WEST 36.32 FEET; THENCE SOUTH 90° 00' 00" EAST 24.79 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(B-5)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 21.12 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 9.18 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 166.09 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG SAID EAST LINE 5.85 FEET; THENCE NORTH 90° 00' 00" WEST 41.95 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 00' 00" EAST 16.41 FEET; THENCE NORTH 90° 00' 00" WEST 9.88 FEET; THENCE NORTH 00° 00' 00" EAST 7.50 FEET; THENCE NORTH 90° 00' 00" WEST 8.84 FEET; THENCE SOUTH 00° 00' 00" WEST 23.91 FEET; THENCE SOUTH 90° 00' 00" EAST 18.72 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(B-6)

A PARCEL BEING PART OF BLOCK 22 (EXCEPT THE EAST 75.00 FEET THEREOF TAKEN FOR WIDENING NORTH MICHIGAN AVENUE), TAKEN AS A TRACT IN KINZIE'S

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ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID PARCEL LYING BELOW 36.83 FEET ABOVE CHICAGO CITY DATUM AND LYING ABOVE 22.94 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE HORIZONTAL BOUNDARIES OF SAID PARCEL PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE THEREOF 119.83 FEET; THENCE SOUTH 00° 10' 00" WEST ALONG THE EAST LINE OF SAID TRACT 36.00 FEET TO POINT OF BEGINNING; THENCE NORTH 90° 00' 00" WEST 24.82 FEET; THENCE SOUTH 00° 00' 00" WEST 10.26 FEET; THENCE SOUTH 90° 00' 00" EAST 24.79 FEET TO THE EAST LINE OF SAID TRACT; THENCE NORTH 00° 10' 00" EAST ALONG THE EAST LINE OF SAID TRACT 10.26 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PROPERTY ADDRESS: 540 NORTH MICHIGAN AVENUE,
CHICAGO, COOK COUNTY, ILLINOIS

PROPERTY INDEX NUMBER: 17-10-121-005-0000

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EXHIBIT D

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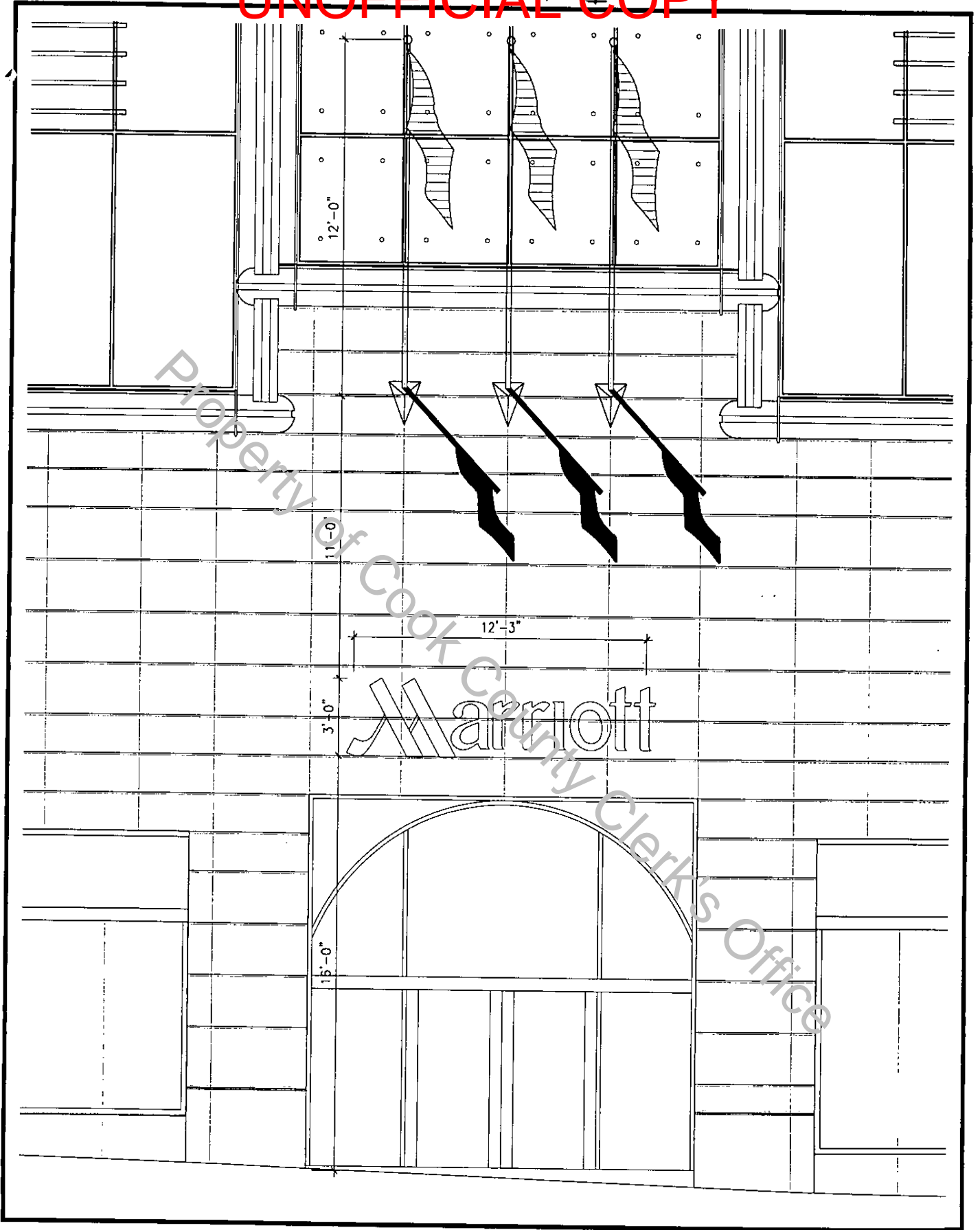
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EXHIBIT E

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CHICAGO MARRIOTT
RENOVATION

ASK-404

SCALE: N.T.S.
NOVEMBER 22, 1999

THE JOHN BUCK COMPANY

HOTEL ENTRY
MICHIGAN AVENUE

DE STEFANO + PARTNERS

DeStefano and Partners, Ltd. Architecture
445 East Illinois Street Planning
Chicago, Illinois 60611 Interior Design

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EXHIBIT H

USE RESTRICTIONS

The following use restrictions shall be applicable to the Project and the Project Site unless the Owner's, in their sole discretion, agree in writing to waive such restriction.

A. As long as this Agreement remains in force, neither Owner shall use or permit its respective Building to be used for any of the following purposes:

1. Transient hotel or motel housing (provided, however, that this restriction shall not prohibit use as a commercial class hotel); and
2. Single room occupancy housing.

B. During the Virgin Records Term (as hereinafter defined) of that certain Lease dated May 1, 1997 between Retail Owner and Virgin Entertainment Group, Inc. (as such Lease previously has been amended, modified, assigned, extended, and expanded, the "**Virgin Records Lease**"), Hotel Owner shall not grant: (1) any tenant of the Hotel Building that leases less than 6,000 square feet of space an exclusive right to sell, rent, or distribute any merchandise; or (2) any tenant of the Hotel Building that leases 6,000 square feet of space or more (a) an exclusive right to sell, rent, or distribute any Exclusive Use Item (as hereinafter defined) or (b) to sell, rent or distribute any items or class of items which constitute more than 30% of the aggregate gross sales of the tenant (the "**Virgin Records' Tenant**") occupying the portion of the Retail Building identified as Parcels A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, and A-10 on the Survey (the "**Virgin Records' Space**"). For purposes hereof, the term "**Virgin Records Term**" shall mean and refer to (y) the current term of the Virgin Records Lease which commenced on January 5, 1999 and terminates on December 31, 2014 and (z) the three additional terms of five (5) years each. In no event shall the term "**Virgin Records Term**" include any other option or renewal terms or extensions that the Retail Owner may grant after the date hereof.

Hotel Owner further agrees that if Hotel Owner grants a tenant an exclusive right to sell, rent or distribute any item or class of item in accordance with the terms of this provision, such exclusive right shall be conditioned as follows: (1) the Virgin Records' Tenant shall be entitled to continue to offer such item or class of items for sale, rental or distribution at the Virgin Records' Space provided that the annual gross sales of the Virgin Records' Tenant attributable to such items shall not increase more than 30% above what gross sales with respect to such items were at the time Hotel Owner granted such exclusive or, if the Virgin Records' Tenant was not then selling, renting or distributing such item, gross sales with respect to such exclusive item or class of items shall thereafter not exceed 2% of what gross sales were at the time Hotel Owner granted such exclusive and (2) Hotel Owner provides Retail Owner with prior written notice of its intent to grant such exclusive ("**Exclusive Notice**") and that such exclusive right shall not be granted if either (a) Retail Owner or the Virgin Records' Tenant delivers a written notice (the "**Increase Notice**") to Hotel Owner

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within forty-five (45) days after receipt of such Exclusive Notice that the Virgin Records' Tenant agrees to use all due diligence to increase its sales of the proposed exclusive item to constitute in excess of 10% of its gross sales or (b) neither Retail Owner nor the Virgin Records' Tenant delivers the Increase Notice to Hotel Owner within such forty-five (45) day period; provided, however, if Retail Owner or the Virgin Records' Tenant delivered an Increase Notice and the Virgin Records' Tenant's sales, rentals, or distribution of such item or class of items do not constitute in excess of 10% of the Virgin Records' Tenant's gross sales for any 30 day period occurring within 180 days from the date of delivery of the Increase Notice, Hotel Owner may thereafter grant such exclusive.

An "Exclusive Use Item" shall mean the sale, rental or distribution of pre-recorded records, video cassettes (whether music videos, feature film videos or any other type of pre-recorded videos), LP's, 12" singles, 7" singles, cassettes, cassette singles, CD's, CD singles, laser discs, and computer games, games software, computer hardware, virtual reality games/machines, video games (e.g. Nintendo or Sega), computer software, DVD items, books (provided that any gift or sundry shop operated in the Hotel Building shall not be subject to the foregoing restriction on the sale, rental, or distribution of books), video tapes, video discs, video software, C.D.-1 and C.D. - ROM items and any direct substitutes for or items which are a technological evolution of the above items. Notwithstanding the foregoing, Hotel Owner and any tenant of Hotel Owner shall have the right to use the lesser of (a) 15% of the floor area of their premises, or (b) 1,000 square feet of floor area to sell the Exclusive Use Items in violation of this provision.

C. During the Virgin Records Term and the Cole Term (as hereinafter defined), neither Owner shall use or permit its respective Building to be used for any of the following purposes:

1. an auditorium, meeting hall, school or other place of public assembly, gymnasium, health club, exercise or dance studio, dance hall, off-track betting business, billiard or pool hall -- notwithstanding the foregoing, nothing in this Exhibit H shall be construed to preclude the operation of a hotel business in the Building which operation includes, without limitation, the provision and use of conference rooms, meeting facilities, exercise facilities, social functions (including dancing and playing of live or recorded music in connection therewith) and other customary hotel services offered in large hotels located in the downtown Chicago area); or
2. for bingo or similar games of chance, or as a massage parlor, game arcade, bowling alley, adult book or adult video tape store (which are defined as stores in which any portion of the inventory is not available for sale or rental to children under 18 years old because such inventory explicitly deals with or depicts human sexuality), or office use (other than such office use which is incidental to a retail or hotel business and then only to the extent necessary to operate such business in the Building).

The term "Cole Term" shall mean and refer to (y) the current term of the Cole Lease (as hereinafter defined) which commenced on December 1, 1998 and terminates on April 30, 2009 and (z) two additional terms of five (5) years each. In no event shall the term "Cole Term" include any other option or renewal terms or extensions that the Retail Owner may grant after the date hereof. For purposes hereof, the term "Cole Lease" shall mean and refer to that certain Lease dated July 6, 1998 between Retail Owner and Cole Michigan Avenue,

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Inc., as such Lease previously has been amended, modified, assigned, extended, and expanded.

- D. During the Virgin Records Term, neither Owner shall use or permit its respective Building to be used for the display of signage of a competitor of the Virgin Records' Tenant. A "competitor of the Virgin Records' Tenant" shall mean an entity that, if such entity were operating as a tenant in the Project such operations would include the sale of any Exclusive Use Items; provided, however, that such definition shall not be construed so as to prevent the Owner or operator of the Hotel Parcel from affixing signage or displaying advertising material within the Project for purposes of advertising the operation of an entity operating outside the Project, regardless of the nature of such entity's operations or use. Nothing contained in this Exhibit H or this Agreement shall prevent Hotel Owner or its Permittees from installing identification signs for the Hotel in, on or about the Hotel Building.
- E. The Retail Owner shall not use or permit the Retail Building or any portion thereof to be used as a hotel or for the operation of any banquet facilities, catering facilities or businesses, restaurants, cocktail lounges, coffee shops or related facilities for on-site or off-site consumption of food or beverages (except for a coffee shop or related facility for on-site or off-site consumption of food or beverages that is ancillary to another business located within the Retail Building, and, if the Amended and Restated Management Agreement dated November 28, 1989 between Hotel Owner and Marriott is in effect, that has been approved by Hotel Owner), beauty shops, barber shops, package liquor stores, airline reservation facilities (except for airline reservation and ticketing facilities located within the Retail Building that has been approved by Marriott under the Amended and Restated Management Agreement dated November 28, 1989 between Hotel Owner and Marriott) or automobile rental facilities. Nothing contained in this Paragraph E shall prohibit the operation of the cafe by the Virgin Records' Tenant.
- F. Each Owner shall use its Parcel solely for the operation of a business consistent with the North Michigan Avenue Standard.

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