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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND RECIPROCAL EASEMENTS
1700-1710 WEST NORTH AVENUE
CHICAGO, ILLINOIS**

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THIS INSTRUMENT WAS PREPARED BY AND AFTER RECORDING SHOULD BE MAILED TO:

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180 North LaSalle Street, Ste. 1601
Chicago, IL 60601



Property Address and Property Identification Numbers:

1700-1710 West North Avenue
Chicago, Illinois 60622
14-31-429-031-0000
14-31-429-032-0000

P.I.N.

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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND RECIPROCAL EASEMENTS
FOR 1700-1710 WEST NORTH AVENUE
CHICAGO, ILLINOIS**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RECIPROCAL EASEMENTS (this "Agreement") is made and entered into as of the 1ST th day of September, 1999 by MIDTOWN BANK AND TRUST COMPANY OF CHICAGO ("Trustee"), not personally, but solely as Trustee under that certain Trust Agreement dated July 9, 1997 and known as Trust Number 2134, and NORTH AND PAULINA DEVELOPMENT L.L.C. an Illinois limited liability company ("Beneficiary") (Trustee and Beneficiary are collectively referred to herein as "Declarant").

RECITALS:

- A. Capitalized terms used and not otherwise defined in the Recitals shall have the meanings set forth in Article 1 hereof.
- B. Trustee is the owner of the Parcel, which is situated in Chicago, Cook County, Illinois and is legally described in Exhibit A, attached hereto and made a part hereof, and Beneficiary is the sole beneficiary of Trustee.
- C. Declarant intends to construct on the Parcel a four (4) story plus indoor garage building which will include certain commercial space on the ground or first floor level and ancillary parking behind the commercial space; condominium residences on floors 2, 3 and 4, and parking in a basement garage and common areas appurtenant to the commercial space and to the condominium residences ("Total Property").
- D. Declarant intends either to hold title to the Commercial Property itself or to convey title to the Commercial Property to a third party, which may be an affiliate of Declarant, and reserves the right to convert the Commercial Property to commercial condominium spaces.
- E. The Residential Property and the Commercial Property are functionally dependent on the other, to some extent, for structural support, enclosure, ingress and egress, utility services or other facilities and components necessary to the efficient operation and intended use of the Residential Property and the Commercial Property.
- F. Declarant has submitted or will submit the Residential Property to the Act, but the Commercial Property has not been submitted to the Act and Declarant reserves the right to elect to submit the Commercial Property to the Act.
- G. Declarant desires by this Agreement to provide for the efficient operation of each respective portion, estate and interest in the Total Property, to assure the harmonious relationship of the Owners of each such respective portion, estates or interest in the Total Property, and to protect the respective values of each such portion, estate and interest in the Total Property, by providing for, declaring and creating certain easements, covenants and restrictions against and affecting the Residential Property and the Commercial Property which will be binding upon each present and future Owner of the Residential Property and of the Commercial Property, or of any portion thereof or interest or estate therein.

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

ARTICLE I
DEFINITIONS

As used herein, the following terms shall have the following meanings:

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

1.2 "Building" means that certain four (4) story building with basement commonly known as 1700-1710 West North Avenue, Chicago, Illinois.

1.3 "Common Elements" means all portions of the Residential Property or Commercial Property submitted from time to time to the Act pursuant to the Condominium Declaration except the Units or Limited Common Elements.

1.4 "Common Walls, Floors and Ceilings" means all common structural and partition walls, floors and ceilings situated on or adjoining the Residential Property and the Commercial Property, or located on one such property but forming the walls, floors or ceilings of the other property.

1.5 "Condominium Association" means 1700 West North Avenue Residential Building Condominium Association, an Illinois not-for profit corporation formed for the purpose of administering the Residential Property pursuant to the Act. The Condominium Association shall be the agent and representative of the Owners of the Residential Property whenever there is more than one Owner of the Residential Property. In such instances, whenever this Agreement requires or allows for actions to be taken by the Owner of the Residential Property, the Condominium Association shall be the party to act for and on behalf of the Owners of the Residential Property. In the event that the Commercial Property shall be submitted to the Act, the respective 1700 West North Avenue Commercial building Condominium Association shall be the agent and representative of the owners thereof.

1.6 "Condominium Declaration" means that certain Declaration of Condominium Ownership and of Easements, Restrictions, Covenants and By-Laws for the 1700 West North Avenue Residential Building Condominium Association dated as of _____, 2000 and recorded in the Office of the Recorder of Deeds of Cook County, Illinois as Document No. _____, or any declaration of condominium ownership and of easements, restrictions, covenants and by-laws which submits the Residential Property to die provisions of the Act, together with any amendments and supplements thereto.

1.7 "Declarant" means Trustee and/or Beneficiary, their successors and assigns and any other person or entity designated by Declarant to be Declarant.

1.8 "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Reciprocal Easements, including all exhibits, amendments and supplement thereto.

1.9 "Easements" means all easements granted, reserved, provided for, declared or created pursuant to or in accordance with the terms and provisions of this Agreement.

1.10 "Emergency Situation" means a damage, act, event or situation impairing or imminently likely to impair services, utilities, access or the structural support, use or safety of the Building or causing or imminently likely to cause bodily injury to persons or substantial physical damage to the Total Property or any property in, on, under, within, upon or about the Total Property. The duration of an Emergency Situation shall be deemed to include the time reasonably necessary to remedy the Emergency Situation.

1.11 "Facilities" means all components of the domestic water, sanitary waste, storm water, electrical, telephone, cable, television, gas, heating, air conditioning and all other utilities and systems forming a part of the Building and designed or used to furnish utility and other services to any portion of the Building, including but not limited to the following components of such systems: access points and places, antennae, boilers, boxes, brackets, cabinets, cables, chases, chutes, coils, compressors, conduits, connections, controls, control centers, couplers, dampers, devices, ducts, equipment, fans, fixtures, flues, furnaces, generators, hangers, heat exchangers, intake devices, junctions, junction boxes, lines, machines, meters, motors, outlets, panels, pipes, pumps, radiators, risers, spaces, switches, systems, transformers, valves, vents, wiring and the like.

1.12 "Improvements" means the Residential Improvements and the Commercial Property.

1.13 "Maintenance" means and includes operation, maintenance, repair, reconditioning, refurbishing, reconfiguration, inspection, testing, cleaning, painting, installation and replacement when necessary or desirable of Facilities or of such other portions of the Improvements and includes the right of access to and the right to remove from the Improvements portions of such Facilities for any of the above purposes, subject, however, to any limitations set forth elsewhere in this Agreement.

1.14 "Mortgage" means a mortgage or trust deed in the nature of a mortgage on the Common Elements of the Residential Property or on the Commercial Property, but shall not include a mortgage or trust deed on a Unit in the Residential Property or a Unit in the Commercial Property submitted to the Act.

1.15 "Mortgagee" means the holder of a Mortgage.

1.16 "Owner" means either the Owner of the Residential Property or the Owner of the Commercial Property, as the context requires. "Owners" means the Owner of the Residential Property and the Owner of the Commercial Property. If and so long as any portion of the Residential Property constitutes condominium property subject to the Act, the Owner of such Residential Property shall mean collectively all of the Unit Owners in and to such Residential Property and not individually, and the rights of such Owner shall be exercised by the Condominium Association by its Board of Managers administering such Residential Property on behalf of its Unit Owners, except for such rights or benefits expressly granted to its Unit Owners, and except for Easements which by their nature are exercisable only by Unit Owners. In the event of any action taken by the Condominium Association's Board of Managers, the Unit Owners shall be bound as if such Unit Owners had expressly consented and agreed to such actions by the Condominium Association. All obligations under this Agreement of the Owner of the Residential Property shall be obligations jointly and severally of both the Condominium Association and all Unit Owners in such Residential Property and any then arising against the Owner of the Residential Property may be imposed against the Units of all such Unit Owners based upon their

percentages of interest in the Common Elements appurtenant to such Residential Property. Likewise for the Commercial Property if, as, and when submitted to the Act.

1.17 "Owner of the Residential Property" means the person or entity (or persons or entities if more than one) at any time in question, holding fee simple title to the Residential Property. Whenever there is more than one Owner of the Residential Property and actions are or must be taken by or on behalf of the Owners of the Residential Property, the Condominium Association shall act for and on behalf of the Owners of the Residential Property and shall be the sole authorized representative and agent of the Owners of the Residential Property in connection with this Agreement.

1.18 "Owner of the Commercial Property" means the person or entity (or persons or entities if more than one) at any time in question, holding fee simple title to the Commercial Property. Whenever there is more than one owner of the Commercial Property and actions are or must be taken by or on behalf of the Owner of the Commercial Property is submitted to the Act the Condominium Association shall acts for and on behalf of said Owners.

1.19 "Parcel" means the parcel of real estate legally described on Exhibit A attached hereto.

1.20 "Recorder" means the Recorder of Deeds of Cook County, Illinois.

1.21 "Residential Improvements" means all improvements constructed or reconstructed upon and within the Parcel, including, without limitation, the Building, the Facilities, garage areas, sidewalks and landscaping located in, on or under the Parcel, but excluding the Commercial Property.

1.22 "Residential Property" means the portion of the Parcel containing the Residential Improvements, as legally described in Exhibit B, attached hereto and made a part hereof.

1.23 "Commercial Property" means all improvements and Facilities constructed or reconstructed within or exclusively serving the commercial spaces containing approximately 6,000 square feet of net rentable area on the ground floor level of the Building and ground level parking located behind the Building and that portion of the Parcel not containing any portion of the Building, but excluding any Facilities exclusively serving the Residential Property (including the garage), which Commercial Property is legally described in Exhibit C, attached hereto and made a part hereof.

1.24 "Total Property" means the Residential Property and the Commercial Property.

1.25 "Unavoidable Delay" means fire or other casualty, national emergency, governmental or municipal laws or restrictions, enemy action, civil commotion, strikes, lockouts, inability to obtain labor or materials, war or national defense preemption, acts of God, energy shortages or similar causes beyond the reasonable control of an Owner (other than inability to make payment of money) which excuses the timely performance of any obligation created hereunder. 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 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. Such nonperforming Owner shall, from time to time upon written request of the other Owner, keep the other owner fully informed, in writing, of all further developments concerning any such Unavoidable Delay.

1.26 "Unit" means any portion of the Residential Property submitted to the Act described as a "Unit" in the Condominium Declaration and/or our portion of the Commercial Property submitted to the Act and described as a "Unit".

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

1.28 "Unit Ownership" means a part of any portion of the Residential Property or Commercial Property is submitted to the Act consisting of one Unit and the undivided interest in the Common Elements appurtenant thereto.

ARTICLE 2

EASEMENTS IN FAVOR OF COMMERCIAL PROPERTY

2.1 The following perpetual Easements in, to, under, over, upon, through and about portions of the Residential Property in favor of the Commercial Property are hereby granted, reserved, declared and created (the term "Granted" or "granted" as hereinafter used in describing Easements shall be deemed to mean "granted, reserved, declared and created"):

(a) A non-exclusive Easement in and to all structural members, footings, caissons, foundations, column and beams and any other supporting components located in or constituting a part of the Residential Property, for the construction, use, structure, support and Maintenance of (i) the Commercial Property and (ii) any Facilities located in the Residential Property with respect to which the Owner of the Commercial Property is granted an Easement under this Agreement.

(b) A non-exclusive Easement for access to and the use for their intended purposes and Maintenance of all Facilities located in the Residential Property and connected to Facilities located in the Commercial Property (and any replacement thereof), including without limitation, exhaust toilet, plumbing, mechanical and other vents, furnace, hot water heater, boilers, flues, HVAC systems serving the Commercial Property, and mechanical, plumbing and electrical systems in the Building.

(c) A non-exclusive Easement, permitting encroachments if and to the extent that, by reason of the original construction or design, any construction between the date of original construction and the date hereof or any reconstruction or replacement authorized by the terms of this Agreement of any part of the Commercial Property encroaches or shall hereafter encroach upon any part of the Residential Property. Such Easement permitting encroachments shall exist only as long as the encroaching portion of the Commercial Property continues to exist.

(d) An Easement (i) in and to all Common Walls, Floors and Ceilings and (ii) for the use of such Common Walls, Floors and Ceilings.

(e) A non-exclusive Easement for ingress and egress by persons, pets, personal property, material and equipment over, on, across and through the perimeter doors, interior hallways, passageways, stairs, lifts and other areas serving exclusively or non-exclusively the Commercial Property.

(f) A non-exclusive Easement for access to and the use of any trash room, electrical room, storage room, utility room and all other areas of the Residential Property necessary or appropriate to provide the Owner of the Commercial Property use and Maintenance of all utility services for the Commercial Property, use of the

trash room, and access to all public rights of way abutting the Parcel, which Easement shall include ingress and egress over, on, across and through the parking garage of the Residential Property. Included in such Easement shall be the right to install, use, replace and maintain four (4) trash bins or dumpsters, as reasonably necessary, in the trash room of the Residential Property or in the alley access. The Owner of the Commercial Space shall contact or otherwise make arrangements with third parties for the collection and disposal of its trash collected therein if not otherwise provided by the applicable municipal entity.

(g) An Easement for the use of, access to and ingress and egress from any Parking Space (as defined in the Condominium Declaration) which the Owner of the Commercial Property has the right to use for the parking of two (2) non-commercial passenger van, automobile, motorcycle or similar vehicle. Such Easement shall include, without limitation, ingress and egress to and from such Parking Space from and to any public rights of way abutting the Parcel as used in common with the Owner of the Residential Property, and ingress and egress to and from the Commercial Property from and to such Parking Space. The Owner of the Commercial Property shall pay to the Owner of the Residential Property a fee for the Maintenance of this Easement which fee shall be the same fee paid by each Owner of a condominium unit or portion of assessments attributable to each Owner's Parking space, for so long as the Owner of the Commercial Property is entitled to exercise its rights pursuant to this Easement, not to exceed Twenty Five Dollars (\$25) per week.

2.2 None of the Easements created under this Article 2 which provides or requires, for its enjoyment, ingress and egress on, over, across or through the Residential Property shall be subject to limitations with respect to the use of such Easements, including, without limitation, limitations with respect to the establishment of limited hours of the day or days of the week during which such Easements may be used. Each Easement created under this Article 2 which provides or requires, for its enjoyment, ingress and egress on, over, across or through the roof of the Building shall be subject (except in an Emergency Situation) to such reasonable limitations regarding the establishment of limited hours of the day or days of the week during which such Easements may be used to prevent any unreasonable interference with the use and operation of the applicable portion of the Residential Property; provided, however, that any such limitations shall not preclude or unreasonably restrict enjoyment or exercise of any Easement.

2.3 Easements provided for, declared or created under this Article 2 shall be binding upon the Residential Property and the Owner of the Residential Property and shall run in favor of and inure to the benefit of and be appurtenant to the Commercial Property and each portion thereof.

ARTICLE 3
EASEMENTS IN FAVOR OF RESIDENTIAL PROPERTY

3.1 The following perpetual Easements in, to, under, over, upon, through and about portions of the Commercial Property in favor of the Residential Property are hereby granted:

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

(b) A non-exclusive Easement (i) for access to and the use for their intended purposes and Maintenance of all Facilities located on, and under the Commercial Property and connected to Facilities located in the

Residential Property (and any replacement thereof) which provide the Residential Property with any utilities other services, light, and air.

(c) A non-exclusive Easement permitting encroachments if and to the extent that, by reason of the original construction, any construction between the date of original construction and the date hereof or any reconstruction or replacement authorized by the terms of this Agreement of the Residential Improvements or the subsequent settlement or shifting of any part of the Residential Improvements, any part of the Residential Improvements encroaches or shall hereafter encroach upon any part of die Commercial Property. Such Easement permitting encroachments shall exist only as long as the encroaching portion of the Residential Improvements continues to exist.

(d) An Easement (i) in and to all Common Walls, Floors and Ceilings serving the Residential Property and (ii) for the use of such Common Walls, Floors and Ceilings.

(e) A non-exclusive Easement for access to and ingress and egress to and from the Residential Property and any public right of way adjoining the Commercial Property, which Easement shall be across those areas of the Commercial Property which are not improved with any permanent structure nor reserved for Commercial parking and which are necessary for access, ingress and egress to and from the garage portion of the Residential Property, and which easements are so designated on the Plat of Survey attached as Exhibit "D" to the Declaration of Condominium for The 1700 West North Avenue Residential Building Condominium.

(f) A non-exclusive refuse container easement of approximately ten (10) feet by eight (8) feet as depicted on the Plat of Survey attached as Exhibit "D" to the Declaration of Condominium of The 1700 West North Avenue Residential Building Condominium.

3.2 Each Easement created under this Article 3 which provides or requires, for its enjoyment, ingress and egress on, over, across or through the Commercial Property shall be subject (except in an Emergency Situation) to such Reasonable limitations, including, without limitation, rules and regulations, as the Owner of the Commercial Property may, from time to time, impose with respect to the use of such Easements, including, without limitation, the establishment of limited hours of the day or days of the week during which such Easement may be used to prevent any unreasonable interference with the use and operation of the Commercial Property and in order to assure the Reasonable security of the Commercial Property; provided, however, that any such limitations shall not preclude or unreasonably restrict enjoyment or exercise of any such Easement.

3.3 Easements provided for, declared or created under this Article 3 shall be binding upon the Commercial Property" and the Owner of the Commercial Property and shall run in favor of and inure to the benefit of and be appurtenant to the Residential Property.

ARTICLE 4
SERVICES BY OWNER OF RESIDENTIAL PROPERTY
AND BY OWNER OF COMMERCIAL PROPERTY

4.1 The Owner of the Residential Property shall furnish, or cause to be furnished, as and when necessary, the following services to the Owner of the Commercial Property and the tenants of the Commercial Property to the extent required and on the same basis as such services are provided to residents of the Residential Property:

(a) Landscaping and Snow Removal. Maintenance of exterior landscaping and snow removal in front of the Building;

(b) Utilities And Other Similar Services. Maintenance of all Facilities located in the Residential Property and connected to and shared with Facilities located in the Commercial Property, including without limitation, the exhaust, toilet, plumbing and other vents, furnace, hot water heater and other flues and the mechanical, plumbing and electrical systems in the Building. Included in such obligation is the Maintenance of any trash rooms, utility, pump, boiler or submeter rooms or areas and other areas of the Building with shared Facilities and the Maintenance of Facilities prior to and at the point where such Facilities have been divided, separated or submetered between the Commercial Property and the Residential Property.

(c) City Water Supply System. Paying for the supply of city water, subject to the Owner of the Commercial Property's obligation to reimburse the Owner of the Residential Property for the Commercial Property's share of such payments based on periodic water readings (which periodic readings shall coincide with the Owner of the Residential Property's receipt and payment of water bills from the municipal entity responsible for collecting such bills). The Owners shall jointly arrange for such readings reasonably determined in good faith, but in no event later than thirty (30) days after the Owner of the Residential Property receives each such water bill. The Owner of the Residential Property also shall have the Maintenance obligations of all water lines from the Parcel's boundary line to the point of connection to the meters, regardless of the existence of any easement for such water lines in favor of the City of Chicago or other appropriate provider of municipal water. From the point of connection to such meters forward to the tap or other end point, maintenance of such water system shall be the responsibility of the party served by such meter; provided, however, that each such party shall have an Easement for the Maintenance of such meter and the other Facilities necessary for supplying hot and cold water to such party's portion of the Total Property.

4.2 The Owner of the Commercial Property shall cooperate with the Owner of the Residential Property in its efforts to secure and furnish the foregoing services.

4.3 The submission of statements for services rendered pursuant to this Article 4, provisions for payment thereof, and provisions for additional payments incurred in connection with such services and the operation, maintenance, repair and replacement of shared Facilities shall be made as follows:

(a) Allocation of Costs. Owner of the Commercial Property shall bear twenty percent (20%), and the Owner of the Residential Property shall bear eighty percent (80%) (such percentages based on the estimated total square footage of the Commercial Property and the Residential Property, respectively, in relation to the total square footage of the Building), of the total cost of the services to be furnished, or caused to be furnished, by the Owner of the Residential Property as described in Paragraphs 4. 1 (a) and 4. 1 (b) of this Agreement. At the option of the Owner of the Commercial Property, within six (6) months after the completion of improvements on the Parcel, the Commercial Property may be remeasured and the foregoing allocation of costs and the other allocation of costs set forth in this Agreement shall be adjusted accordingly. Upon completion of such remeasurement, the Owner of the Commercial Property shall provide a notice to the Owner of the Residential Property of the results of the remeasurement and the resulting recalculation of the allocation of costs. To the extent that the Commercial Space is submitted then the submitted cost shall precede the other allocation of costs for such submetered utility.

(b) Submission and Payment of Statements. Owner of the Residential Property shall submit statements on or about the first day of each calendar quarter to the Owner of the Commercial Property for

services agreed upon, rendered and actually paid for pursuant to Paragraph 4.1 of this Agreement, and said statements shall be paid by the Owner of the Commercial Property within thirty (30) days.

4.4 If the Owner of the Residential Property shall fail to render the services described in Section 4.1 above to the Owner of the Commercial Property (except when such failure is caused by the Owner of the Commercial Property or Unavoidable Delay) and such failure shall continue for a period of thirty (30) days after written notice thereof to the Owner of the Residential Property, the sole remedy therefor available to the Owner of the Commercial Property shall be the right to undertake the performance of such services on its own for its own benefit and at its own cost and expense and thereafter to seek compensation from the Owner of the Residential Property or to set off against other amounts which may be due to the Owner of the Residential Property against such costs and expenses, which costs and expenses shall include the costs incurred by the Owner of the Commercial Property in enforcing the obligations of the Owner of the Residential Property under this Agreement, and such costs and expenses shall further be subject to interest at the rate of twelve percent (12%) per annum until reimbursed. Such notice shall not be required in an Emergency Situation resulting from such failure.

4.5 If, at any time, the Owner of the Commercial Property shall fail to pay to the Owner of the Residential Property any sum of money payable to it pursuant to the terms of this Agreement for ninety (90) days after written notice from the Owner of the Residential Property demanding payment of said sum of money, then, subject to Section 11.4, the Owner of the Residential Property may, in addition to any other rights or remedies hereunder, discontinue furnishing of the services for which payment has not been received until said sum of money is paid.

4.6 In addition to the foregoing provisions of this Article 4, the Owner of the Commercial Property shall be solely responsible for all of the cost of the maintenance, repair, and replacement of its doors, and windows, adjacent to and serving exclusively the Commercial Property, as well as a separate Commercial Property management fee, or other costs directly attributable to the Commercial Property.

4.7 The Owner of the Residential Property and the Owner of the Commercial Property each shall be responsible for, and each shall furnish, or cause to be furnished, as and when necessary and at their own respective cost and expense, the following:

(a) Walls, Floors and Ceilings. Maintenance, repair and replacement of the Building exterior and interior walls, floors and ceilings exclusively appurtenant to their respective portions of the Building. Where such walls, floors and ceilings are shared in common, the Owner of the Commercial Property shall be responsible for the maintenance, repair and replacement of its drywall and the Owner of the Residential Property shall be responsible for the balance of the Maintenance, repair and replacement of such walls, floors and ceilings except where the legal description of the Commercial Property or the Residential Property, respectively, incorporates all or a different portion of such walls, floors and ceilings;

(b) Roof. Maintenance, repair and replacement of the portions of the roof of the Building shall be the sole responsibility of the Owner of the Residential Property except to the extent the Owner of the Commercial Property or its tenants cause or permit damage to the any portion of the roof, in which case the Owner of the Commercial Property shall be responsible for and pay the cost and expense of repairing such damage; and

(c) Snow and Ice Removal. Removal of snow and ice from sidewalks leading to all street level entrances to the Building shall be the sole responsibility of the Owner of the Residential Property.

ARTICLE 5 STRUCTURAL SUPPORT

5.1 No Owner shall do or permit any act which would adversely affect or interrupt the use, structure, safety or integrity of the Improvements or the Facilities on any portion of the Parcel.

5.2 Except in the case in which Article 9 is applicable, if substitute or additional structural support or Facilities are required in any portion of the Improvements in which the structural support or Facilities shall have been reduced or the safety of any portion of the Improvements is endangered, then the Owner on whose Property the support or Facilities are located shall be responsible for construction in accordance with plans and specifications approved by (except insofar as the provisions of Article 14 would not require such approval) the Owner of the portion of the Total Property benefitted thereby, and, subject to the provisions of Article 10 hereof, the Owner or Owners responsible for such reduction or endangerment shall pay all costs and expenses, including any architects and other fees, in connection with construction of substitute or additional support. However, (a) if the responsible Owner cannot be determined, the Owner benefitted by such structural support shall pay such costs and expenses and (b) if the reduction in structural support giving use to the need for such construction results from ordinary wear and tear, the Owner responsible pursuant to Article 9 for maintaining the Improvements requiring such repair shall pay such costs and expenses.

5.3 The Owner or Owners responsible for construction shall commence, within a reasonable time under the circumstances, the construction of such substitute or additional support or Facilities and shall keep the Total Property free of all mechanics lien claims, and having commenced such construction shall proceed diligently to cause the completion of such construction.

5.4 If delay in constructing substitute or additional support would endanger the structural safety or integrity of any portions of the Improvements, then the Owner of the portion of the Total Property benefitted thereby shall, upon not less than twenty (20) days' advance written notice to the other Owner (except that such advance written notice shall not be required in an Emergency Situation), provide substitute or additional structural support as and wherever may be required, or the Owners may 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 Owners provisions of any required substitute or additional support.

5.5 If the Owners cannot within thirty (30) days agree on the allocation of responsibility among them, then the dispute shall be submitted to arbitration as provided for herein; provided, that the party responsible for performing the required structural repairs shall continue to perform all necessary repair work during the pendency of such arbitration proceeding. Notwithstanding anything herein to the contrary, no Owner shall be responsible for nor have any liability in connection with the loss of use of the other portion of the Total Property during any period of reconstruction.

ARTICLE 6 COMPLIANCE WITH LAWS: REMOVAL OF LIENS: ZONING

6.1 The Owners shall each comply with all laws, statutes, codes, rules, orders, decrees, ordinances, regulations and requirements now or hereafter enacted or promulgated by the United States of America, State of Illinois, County of Cook, City of Chicago and any other entity or agency now or hereafter having jurisdiction of the Total Property or any portion thereof, if noncompliance by it with respect to its portion of the Total Property or any part thereof would subject the other Owner to civil or criminal liability, or would jeopardize the full force

or effect of any certificate of occupancy issued to the other Owner or for the Improvements themselves or would jeopardize the other Owner's right to occupy or use beneficially its portion of the Total Property or any part thereof, or would result in the imposition of a lien against any of the property of the other Owner or would impose any threat or danger to any person or property. Neither Owner shall take any action or omit to take any action which could adversely affect (including, without limitation, increase the cost of) any of the insurance maintained by the other Owner. NO GUARANTY OR REPRESENTATION IS MADE AND NONE HAS BEEN OR SHALL BE RELIED UPON BY ANY PARTY WITH REGARD TO THE FOREGOING STATEMENTS MADE IN THIS PARAGRAPH WITH RESPECT TO COMPLIANCE WITH LAWS OR OTHERWISE.

6.2 No Owner shall permit the filing of any mechanic's, materialmen's or any other like lien on any other Owner's portion of the Total Property, or on its portion of the Total Property if the existence or foreclosure of such lien on its portion of the Total Property would adversely affect any Easement hereunder or services to be furnished pursuant to Article 4 hereof, arising by reason of its act or any work or materials which it has ordered. If an Owner fails to remove any such lien within thirty (30) days after the filing thereof, the other Owner may (but is not required to) take such action as the other Owner may deem necessary to remove such lien, including, without limitation, obtaining a title indemnity over such lien. Such Owner shall be entitled to reimbursement from the Owner who has failed to remove such lien for all costs and expenses incurred by such Owner in removing or attempting to remove such lien or in obtaining a title indemnity thereover, plus interest at the Default Rate (defined below) from ninety (90) days after the date of payment of such costs and expenses by such Owner to the date of reimbursement to the other Owner. However, the Owner who has not paid such lien shall not be required to remove such lien within said thirty (30) day-period (and the other Owner shall not be entitled to remove such lien), provided that (i) the continuance of such lien shall not constitute a default under the documents securing a Mortgagee under the Mortgage; (ii) within said thirty (30) day period foreclosure proceedings relating to such lien cannot be completed; and (iii) the Owner responsible for the filing of such lien (A) shall in good faith diligently proceed to contest the same by appropriate proceedings and shall give written notice to the other Owner, and to a Mortgagee if required by applicable loan documents, of its intention to contest the validity or amount of such lien and (B) shall deliver to the other Owner or, if loan documents so provide, to a Mortgagee, either: (x) cash or a surety bond from a responsible surety company acceptable to the other Owner and a Mortgagee, if applicable, in an amount not less than one hundred thirty-five percent (135%) 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, (y) an endorsement to the other Owner's or Mortgagee's title insurance policy over such lien, or (z) other security reasonably acceptable to the other Owner and each Mortgagee, if applicable. The rights of an Owner under the preceding sentence to contest such lien without discharging the same shall terminate if (1) the Owner fails to contest diligently and continuously, (2) final judgment is entered on behalf of the lien claimant or (3) the existence of such liens shall constitute a default under the Mortgage, and in such event the Owner responsible for the filing of such lien shall cause such lien to be discharged or removed within ten (10) days after the occurrence of either of the events in clauses (1), (2) or (3) in this sentence and the other Owner shall have the right (but not the obligation) at any time after said ten (10)-day period to remove such lien and in such event be entitled to reimbursement in accordance with the applicable provisions hereunder. The costs and expenses referred to in this Section 6.2 shall include but not be limited to reasonable attorneys' fees.

6.3 Each Owner (hereinafter in this Section 6.3, the "Indemnifying Owner") covenants and agrees, at its sole cost and expense, to indemnify and hold harmless the other Owner (hereinafter in this Section 6.3, the "Indemnitee") from and against any and all claims against the Indemnities for losses liabilities, damages, judgments, costs and expenses and any action or proceedings arising there from by or on behalf of any person

firm, corporation or governmental authority, other than the Indemnitee, arising from the Indemnifying Owners use, possession or management of the Indemnifying Owner's portion of the Total Property or activities therein or arising out of the Indemnifying Owners use, exercise or enjoyment of an Easement and from and against all costs, reasonable attorneys' fees, expenses and liabilities incurred with respect to any such claim, action or proceeding arising therefrom. In case any action or proceeding is brought against the Indemnitee by reason of any such claim, the Indemnifying Owner, upon notice from the Indemnitee, covenants to resist or defend such action or proceeding with attorneys reasonably satisfactory to the Indemnitee and to pay all reasonable fees and expenses of such counsel. Any counsel for the insurance company providing insurance against such claim, action or proceeding shall be presumed reasonably satisfactory to Indemnitee. Indemnitee shall have the right to employ separate counsel in any such actions brought against Indemnitee, and the fees and expenses of such counsel shall be paid by Indemnitee.

6.4 Without limiting the provisions of Section 6. 1, neither Owner shall make any Alterations (as that term is hereinbelow defined in Section 14. 1) or allow any use of their respective portions of the Total Property or take or fail to take any action which would violate the provisions of the Chicago Zoning Ordinance as said ordinance may be amended from time to time, or any similar or successor ordinance in effect from time to time hereafter and applicable to the Total Property or any portions thereof The Residential Property and Commercial Property shall continue to be combined and treated as one zoning lot for the purposes of complying with the Chicago Zoning Ordinance. No Owner shall have the right to request or obtain any amendment to the Chicago Zoning Ordinance as applicable to any portions of the Total Property without the written consent of the other Owner.

ARTICLE 7
REAL ESTATE TAXES

7.1 The Owners shall make good faith efforts and cooperate with each other so that the Residential Property and the Commercial Property shall, when and as soon as possible, be assigned separate real estate tax index numbers and receive separate real estate tax bills from the Assessor of Cook County, Illinois (the "Assessor"). The parties hereto acknowledge that the submission of the Residential Property to the Act is intended to cause separate real estate tax bills and real estate tax index numbers to be applied for with respect to each Unit of the Residential Property and the parties will cooperate with the Assessor's efforts to so assign such real estate tax index numbers.

7.2 The Total Property currently comprises two (2) tax parcels identified by permanent index numbers 14-31-429-031-0000 and 14-31-429-032-0000. At such time as the Residential Property and the Commercial Property are separately reassessed and taxed, each Owner shall pay the real estate taxes and special assessments for the portion of the Total Property owned by such Owner. Until the Residential Property and Commercial Property are separately taxed, the Owner of the Residential Property shall pay all of the tax bills for the Total Property prior to their due date; prior to such due date, however, the Owner of the Commercial Property shall pay to or as directed by the Owner of the Residential Property its share of the bill for the Total Property as provided in Section 7.3 below.

7.3 Until such a tax division has been completed, the assessed valuation respecting the Total Property and the taxes computed thereon, and the cost of tax counsel and appraisal fees, if any, shall be allocated between the Owners and paid by the respective Owners as follows: twenty percent (20%) by the Owner of the Commercial Property, and eighty percent (80 %) by the Owner of the Residential Property, and the Owner of the Commercial Property shall be responsible for and shall pay to or as directed by, or shall reimburse the Owner of the Residential Property (within ten (10) days after the payment of such taxes and the demand of

the Owner of the Residential Property therefor) for its share of the real estate taxes levied, assessed and paid in the tax bill for the Total Property, from the later of (a) the date of the recording of this Agreement and (b) the date of the recording of the Condominium Declaration.

7.4 If, at any time prior to the Residential Property and the Commercial Property being separately assessed and taxed, any Owner shall fail to pay any tax or other charge, or share thereof, which is due and which such defaulting Owner is obligated to pay pursuant to this Article 7, then the other Owner may, upon ten (10) days' prior written notice to the defaulting Owner, pay such tax or charge, or share thereof, together with any interest and penalties thereon, and the defaulting Owner shall, upon demand, reimburse such paying Owner for the amount of such payment, including the amount of any interest or penalty payments incurred by the Owner making such payment, together with interest as set forth in Section 10.4 hereof, and the paying Owner shall also have a lien against the portion of the Total Property owned by the defaulting Owner in accordance with Article 10 hereof.

ARTICLE 8
INSURANCE

8.1 The Owner of the Residential Property and the Commercial Property shall procure and maintain the following insurance:

(a) The Owner of the Residential Property shall keep the Improvements insured for no less than "all risk" or "special form" coverage on real property and broad form on personal property for an amount not less than one hundred percent (100%) of the insurable replacement cost of the Total Property. Such policies shall be endorsed with a replacement coverage endorsement and an agreed amount clause and no co-insurance penalty shall be applicable. All such policies shall include flood and water back-up insurance.

(b) The Owner of the Residential Property shall maintain Commercial General Liability Insurance covering claims for personal and bodily injury or property damage occurring in, on, under, within, upon or about the Common Elements of the Residential Property, or as a result of operations thereon, in such amounts as may be required by law and as from time to time shall be carried by prudent owners of first-class buildings in the City of Chicago, but in all events for limits of not less than \$1,000,000 combined single limit per occurrence with a general policy aggregate of \$2,000,000.00 for personal and bodily injury or property damage. The Owner of the Residential Property shall be required to maintain such additional coverage as is required pursuant to the Condominium Declaration or the Act.

(c) The Owner of the Commercial Property shall maintain Commercial General Liability Insurance covering claims for personal and bodily injury or property damage occurring in, on, under, within, upon or about the Commercial Property, or as a result of operations thereon, in such amounts as may be required by law and as from time to time shall be carried by prudent owners of first-class buildings in the City of Chicago, but in all events for limits of not less than \$1,000,000 combined single limit per occurrence with a general policy aggregate of \$2,000,000.00 for personal and bodily injury or property damage. For so long as the Easement referenced in Section 2.1 (g) hereof is in force and the Owner of the Commercial Property has the right to use a Parking Spaces, the foregoing insurance required of the Owner of the Commercial Property shall include such Parking Spaces.

(d) At the election of the Owner of the Commercial Property, the insurance to be maintained by the Owner of the Commercial Property may be maintained by a tenant or tenants of the Commercial Property. If and to the extent such tenant or tenants or the Owner of the Commercial Property has a net worth or net shareholder

equity of more than \$25 Million, such party may elect to self-insure some or all of the risks covered by the otherwise required insurance policies.

(e)(i) Owner of the Commercial Property shall bear twenty percent (20%), and the Owner of the Residential Property shall bear eighty percent (80%), of the total cost of insurance to be procured, or caused to be procured, by the Owner of the Residential Property which insures the Commercial Property as described in Paragraph 8.1(a) of this Agreement. Such amounts shall specifically exclude premiums for coverages not insuring the Total Property, including, without limitation, the Condominium Association's directors and officers liability policy and any insurance for items covering components of the Residential Property, such as the elevator.

(ii) Owner of the Residential Property shall submit statements from time to time to the Owner of the Commercial Property for insurance procured pursuant to Paragraph 8.1 (a) of this Agreement and said statement shall be paid by the Owner of the Commercial Property together with its regular assessments due under this Agreement. Such statements shall include copies of the policies or certificates of insurance, the paid receipts for such premiums and the calculations of each party's share of the premiums.

8.2 Insurance policies required by Section 8.1 above shall be purchased from insurance companies authorized and licensed to transact business in the State of Illinois who shall hold a current Policyholder's Rating of not less than investment grade according to Bests Insurance Report or a substantially equivalent rating from a nationally-recognized insurance rating service.

8.3 Limits of liability or types of insurance specified in this Article 8 shall be reasonable and prudent for an Owner of a first-class property and shall be jointly reviewed by the Owners upon renewal, but no less frequently than annually. Policy limits shall be increased or decreased, deductible amounts increased or decreased or types of insurance shall be modified, if justified, based upon said annual review, and upon any such increase, decrease or modification, the Owners shall, if mutually agreeable, 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. Notwithstanding the foregoing, if and to the extent the insurance for the Commercial Property is provided by a tenant or tenants of the Commercial Property pursuant to Section 8.1 (d) hereof, any increase in the required coverages shall be subject to the reasonable consent of such tenant or tenants.

8.4 Certificates delineating all forms of coverage and endorsements required hereunder shall be delivered by each Owner to the other Owner at least thirty (30) days prior to the expiration date of any such expiring insurance policy. Copies of such policies shall be delivered upon request. EACH OWNER SHALL NAME THE OTHER OWNERS AS ADDITIONAL INSURED ON SUCH POLICIES AND EACH MAY, UPON REQUEST, NAME THE OTHER OWNERS' MORTGAGE LENDERS AND/OR TENANTS AS ADDITIONAL INSURED ON SUCH POLICIES. Upon the occurrence of an event which may give rise to a claim under any insurance policy maintained or required to be maintained pursuant to this Article 8, the insured under such policy shall promptly notify the carrier and agent therefor and, if such insured fails to so notify the carrier or agent, any party named as an additional insured under such policy may so notify the carrier or agent.

ARTICLE 9
MAINTENANCE, REPAIR & DAMAGE TO THE
COMMERCIAL, PROPERTY AND RESIDENTIAL PROPERTY

9.1 The Owner of the Commercial Property, at its sole cost and expense, shall keep the Commercial Property and all Facilities located therein (excluding the pipes, ducts and related equipment and other Facilities located in the portion of the Commercial Property below the bottom of the slab forming the floor of the Commercial Property and above the ceiling of the Commercial Property which serve the Residential Property, which Facilities shall be maintained, repaired and replaced by the Owner of the Residential Property) or for which it is assigned Maintenance responsibility in this Agreement in good and safe order and condition and shall make all repairs or replacements of, in, on, under, within, upon or about such property, whether said repairs or replacements are to the interior or exterior thereof, or structural or non-structural components thereof, or involve ordinary or extraordinary repairs or replacements, necessary to keep the same in safe first-class working order and condition, howsoever the necessity or desirability thereof may arise, and whether or not necessitated by wear, tear, obsolescence, defects, fire or other casualty, or otherwise. The plans and specifications for such repair and reconstruction shall provide for the Commercial Property to be rebuilt as nearly as commercially practicable to the Commercial Property as constructed prior to the damage unless prohibited by law or unless the Owner of the Residential Property otherwise agrees. Provisions concerning modifications, alterations, or improvements to the interior or exterior of the Commercial Property are set forth in Article 14 of this Agreement.

9.2 Except as expressly provided in Section 9.1, the Owner of the Residential Property shall at its sole cost and expense, keep all Facilities located in the Residential Property and all portions of the Residential Property necessary to provide structural support, Easements and other services to the Commercial Property required in this Agreement in good and safe order and condition and shall make all repairs or replacements of, in, on, under, within, upon or about such property, whether such said repairs or replacements are to the interior or exterior thereof or structural or non-structural components thereof, or involve ordinary or extraordinary repairs or replacements, necessary to keep the same in safe, first-class working order and condition, howsoever the necessary or desirability thereof may arise, and whether or not necessitated by wear, tear, obsolescence, defects, fire or other casualty or otherwise. Each Owner shall be responsible for reimbursing the other Owner for any costs and expenses incurred in respect to Maintenance for which such Owner is responsible pursuant to this provision to the extent that such Maintenance results from damage caused by the other Owner.

9.3 If at any time any Owner shall not proceed diligently with any repair or restoration of damage adversely and materially affecting an Easement in favor of the other Owner or services to be furnished the other Owner under Article 4 hereto then (i) the Owner benefitting therefrom may give written notice to the other Owner specifying the respects in which such repair or restoration is not proceeding diligently and, if, upon expiration of thirty (30) days after the receipt of such notice, any such repair or restoration work is still not proceeding diligently, then such Owner may perform such repair and restoration and may take all appropriate steps to carry out the same; or (ii) in an Emergency Situation such Owner may immediately perform such repair or restoration and may take all appropriate steps to carry out the same. Such Owner in so performing such repair and restoration shall be entitled to reimbursement upon demand from the defaulting Owner for all costs and expenses incurred by such Owner and such other rights as provided under Article 10 herein.

9.4 Without limiting the generality of the foregoing, if the Improvements are damaged by fire, flood, water damage or other casualty and (a) only the Residential Property is damaged or destroyed or (b) only the Commercial Property is damaged or destroyed in as timely a manner as practicable under the circumstances, and such Owner shall be entitled to use any insurance proceeds in accordance with Article 18 hereof. If at any time any Owner so obligated to repair or restore its portion of the Improvements (the "Repairing Owner") shall not proceed diligently with such repairs and restoration, then (i) the other Owner may give written notice to the Repairing Owner and, after the expiration of thirty (30) days, if the Repairing Owner still is not proceeding to diligently complete such repairs or restoration, the other Owner may perform such repairs or restoration and may

take all appropriate steps to carry out the same and shall have a lien on the insurance proceeds to pay the costs and expenses of such repair and restoration work; or (ii) in an Emergency Situation, the other Owner may immediately perform such repair or restoration work and may take all appropriate steps to carry out the same and shall have a lien on the insurance proceeds to pay the costs and expenses of such repair and restoration work. If the Repairing Owner fails to repair and restore its portion of the Improvements as required by this Agreement, then the other Owner shall, in addition to all other rights and remedies under this Agreement, have a lien on any insurance proceeds payable for loss or damage to such portion of the Repairing Owner's Property under insurance policies carried pursuant to Article 8 hereof and on any condemnation award pursuant to Article 12, in an amount necessary so that the other Owner shall have sufficient proceeds to repair and restore the Repairing Owner's Property to a condition so as adequately to assure:

- (a) the structural integrity and safety of all portions of the other Owner's Property;
- (b) the continuous and efficient operation of all Facilities, Easements, electrical, utility, mechanical, plumbing and other systems serving the other Owner's Improvements;
- (c) the Total Property's compliance with all zoning, building and other laws, rules, orders, ordinances, regulations and requirements of any governmental body or municipality or agency thereof having jurisdiction of the Total Property or any part thereof, and
- (d) the architectural unity and aesthetic appearance of the Building and the restored improvements as a first-class, residential and commercial property.

Except in the case that an Owner is using the proceeds of insurance or condemnation to repair or restore damage to such Owners portion of the Total Property, the lien as to proceeds of insurance or condemnation created by this Section shall be superior to and take precedence over any mortgage or other encumbrance constituting a lien on any portion of the Total Property, except for the lien of a Mortgage. Such lien shall arise immediately upon the recording of a notice by the Owner with the Recorder following the occurrence of the damage to the Improvements stating that it is a lien created by this Section of this Agreement. Such lien shall continue in full force and effect until the sum of money required hereunder shall have been paid to the other Owner. Such lien may be enforced by a proceeding in equity to foreclose such lien in like manner as a mortgage of real property in the State of Illinois or by any other remedy available by statute or at law or in equity.

9.5 If the Improvements are damaged by fire or other casualty and if the provisions of Section 9.4 are not applicable because the nature of the damage does not fall within the categories set forth in clause (a) or (b) of Section 9.4, the then repair and restoration of such damage shall be the joint responsibility of the Owners whose portions of the Total Property are in need of such repair or restoration. Such repair or restoration shall be commenced and pursued to completion in as timely a manner as practicable. Said repair and restoration shall be performed by a contractor selected jointly by such Owners. If such Owners cannot agree on the selection of a contractor, the selection shall be made pursuant to the arbitration provisions of Article 11 hereof. The plans and specifications for such repair and restoration shall provide for the Improvements to be rebuilt as nearly as commercially practicable to the Improvements as constructed prior to the damage or destruction unless prohibited by law or unless the Owners agree otherwise. If the cost and expense of performing the repairs and restoration provided for in this Section 9.5 exceed the amount of available insurance proceeds, such excess cost and expense shall be borne by each respective Owner to the extent that the respective Owner's insurance proceeds on its Improvements are inadequate to pay the cost and expense of repairing and restoring their respective Improvements to their former condition; provided, however, that where such insurance was purchased jointly by the Owners, such excess cost and expense shall be borne in proportion to the respective

Owner's share of the insurance premiums. If there are excess insurance proceeds available after the completion of repairs and restoration, such proceeds shall be refunded to the respective Owners to the extent such sum exceeds the actual repair or restoration of such Owner's Improvements.

9.6 If the Improvements are destroyed or substantially damaged and the Owners agree not to rebuild, repair or restore the Improvements, then the Improvements shall be demolished to the extent necessary to comply with all applicable laws, statutes, codes, ordinances, rules and regulations and requirements of the appropriate governmental entities having jurisdiction over the Improvements. In such event, the available insurance proceeds (after deducting the demolition costs and expenses) shall be paid to each respective Owner shall be refunded to such Owner pursuant to the terms and the amounts stated in each Owner's insurance policies; provided that where such insurance policies were purchased jointly by the Owners, such proceeds shall be distributed to each Owner in proportion to the respective Owner's share of the insurance premiums. If the Improvements are totally destroyed and the Owners agree not to rebuild, the underlying land shall be deemed owned by the Owner of the Commercial Property (as to an undivided six and 34/100ths percent (6.34%) interest) and owned by the Owner of the Residential Property (as to an undivided ninety-three and 66/100ths percent (93.66%) interest) as Tenants in Common.

ARTICLE 10
LIENS, RIGHTS AND REMEDIES

10.1 If, at any time, either Owner (a "Debtor Owner") fails within thirty (30) days after notice or demand to pay any sum of money due the other Owner (a "Creditor Owner") under or pursuant to the provisions of this Agreement, then, in addition to any other rights or remedies the Creditor Owner may have, the Creditor Owner shall have (i) in the event of a default under Articles 9 or 12, a lien against any condemnation award or insurance proceeds payable to the Debtor Owner for loss or damage to the portion of the Total Property owned by the Debtor Owner or otherwise under insurance policies carried pursuant to Article 8 hereof, or (ii) in the event of a default under any other Section of this Agreement, a lien against the portion of the Total Property owned by the Debtor Owner, to secure the repayment of such sum of money and all interest on such sum accruing pursuant to the provisions of this Article 10 or to secure performance of a covenant or obligation. 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 or the performance has been completed. The liens provided for in this Section 10.1 shall be subordinate to any first mortgage, first trust deed or other encumbrance constituting a first lien or the portion of the Total Property owned by the Debtor Owner or other interest of the Debtor Owner including mortgages of Units. Each Owner waives any and all rights to trial by jury in any suit, action or proceeding brought by the other Owner to enforce collection of any monies owed under this Agreement to such other Owner.

10.2 So long as any portion of the Residential Property remains subject to the provisions of the Act, each Unit Owner shall be liable only for such portions of any claim against the Owner of the Residential Property equal to the amount of the claim multiplied by the percentage of ownership interest in Common Elements allocated to such Unit Owner's Unit as set forth in the Condominium Declaration. Upon payment of such amount for which Unit Owner is liable: (i) any lien arising against such Unit Ownership on account of such claim shall be deemed released against such Unit Owner's Unit Ownership without further act or deed by any such Unit Owner, and (ii) upon the written request of such Unit Owner, the Owner of the Commercial Property shall deliver such Unit Owner an instrument evidencing the release of such lien, but only with respect to said Unit Owner's Unit Ownership. When a Unit Ownership is owned by more than one "person" (as defined in the Act) the liability of each such person for any claim against the Unit Ownership shall be joint and several.

10.3 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 10, and any lien which would have arisen against any property pursuant to this Article 10 had there been no conveyance or divestiture of title (other than foreclosure of a lien which shall then be and remain superior) shall not be defeated or otherwise diminished or affected by reason of such conveyance or divestiture of title.

10.4 Interest shall accrue on any sums owed by an Owner to the Owner pursuant to this Agreement, and shall be payable from the date which is thirty (30) days after demand for any such payment is made until paid in full, at a rate (the "Default Rate") of interest equal to the lessor of: (a) the floating rate which is equal to five percent (5%) per annum in excess of the annual rate of interest from time to time announced by LaSalle National Bank in Chicago, Illinois, as its "prime rate" of interest or a reasonably equivalent substitute thereof in the event a prime rate is no longer announced, or (b) the then-maximum lawful rate of interest in Illinois applicable to the defaulting Owner and the nature of the debt. If a "prime rate" or reasonable equivalent thereof is not announced by LaSalle National Bank, and no maximum lawful rate applies, then interest shall accrue at the annual Default Rate of eighteen percent (18%).

10.5 Except as expressly provided in this Agreement, the rights and remedies of each Owner provided for in this Article 10 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. Except as expressly provided in this Agreement, each Owner may enforce, by a proceeding in equity for mandatory injunction, the other Owner's obligation to execute or record any document which the other Owner is required to execute under or pursuant to this Agreement. The exercise by an 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 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 Actions to enforce any right, claim or lien under this Agreement shall be commenced within three (3) years immediately following the date the cause of action occurred, or such other shorter period as may be provided by law or statute; provided, however, that if prior to expiration of the period in which such action must be commenced, each Mortgagee is diligently proceeding to foreclose the Mortgage, then such period in which an action by the Owner of the Residential Property or Owner of the Commercial Property must be commenced shall be further extended for such additional time as may reasonably be necessary in order for each Mortgagee to obtain possession of the applicable Property.

10.8 A defaulting Owner shall pay the reasonable attorneys' fees and court costs paid or incurred by the other Owner in successfully enforcing its rights against the defaulting Owner under this Agreement, and such fees and costs shall be added to the amount of any applicable lien created under this Article 10. If not otherwise provided for in this Agreement and except for emergency situations, a defaulting Owner shall have an opportunity to cure any default hereunder within seven (7) business days after receiving notice from the other Owner specifying the alleged default.

ARTICLE II
ARBITRATION

11.1 The following matters shall be submitted for arbitration to the American Arbitration Association (the "AAA") pursuant and subject to the provisions of this Article 11:

(a) Any dispute, claim or controversy arising under this Agreement involving an amount not exceeding \$50,000.00; and

(b) All other matters which are required under this Agreement to be submitted for, or determined by, arbitration. Any such dispute, claim, controversy or matter is referred to herein as a "Matter". Arbitration of any Matter shall be initiated by any Owner making a written demand therefor by giving written notice thereof to the other Owner and by filing a copy of such demand with the AAA. The AAA shall have jurisdiction upon the giving of such notice and the filing of such demand. Any such arbitration shall be held in Chicago, Illinois, and shall be conducted and completed in an expeditious manner and without delay. Each Mortgagee shall be a party to any arbitration of a Matter involving a matter which requires the consent or approval of the Mortgagee hereunder.

11.2 Unless otherwise agreed to in writing by the parties to the arbitration, within twenty (20) business days after the notice demanding arbitration has been given, the parties shall jointly designate three (3) AAA arbitrators to resolve the Matter. If the parties fail to designate the arbitrators within such time period, arbitrators shall be appointed in accordance with the procedures set forth in the applicable AAA rules, provided, however, that in any event such arbitrators shall be experienced as to the design, construction and/or operation, as the Matter requires, of first-class buildings similar to the Building. The AAA Commercial Arbitration Rules then in effect shall apply to the arbitration of any Matter, unless the parties mutually agree in writing otherwise.

11.3 The arbitrators shall commence hearings within sixty (60) days of selection, unless the Owners and the arbitrators agree upon an expedited or delayed schedule of hearings. Not less than fourteen (14) days prior to the hearings each Owner involved in the dispute shall provide to the other parties involved in the dispute (including the arbitrators) in writing its claims in detail, which shall reference the agreements or portions thereof allegedly violated, all allegations, pertinent facts, documents, evidence and other information relating to the Matter and any Owner may send out requests to compel document production from the Owners. Disputes concerning the scope of document production and enforcement of the document requests shall be subject to agreement by such Owners or may be ordered by the arbitrators to the extent reasonable. The arbitrators in rendering a decision may base such decision only on the facts presented in the course of arbitration and shall not modify or amend the provisions of this Agreement. Subject to the other terms hereof if any Owner fails or refuses to appear at and participate in an arbitration hearing after due notice, the arbitration panel may hear and determine the Matter upon evidence at hand or produced by the appearing Owners. The arbitration costs shall be borne equally by each Owner, except that each Owner shall be responsible for its own expenses, unless one Owner clearly prevails, in which event such Owner shall be entitled to reimbursement of all of its costs and expenses incurred in connection with the dispute, as confirmed by the arbitrators.

11.4 Unless otherwise agreed in writing, the Owners shall continue to perform all obligations and make all payments due under this Agreement in accordance with this Agreement during the course of any arbitration constituted or conducted under the provisions of this Article 11. The obligation of the Owners to continue performance and make payments despite the existence of an arbitration hereunder shall be enforceable by any party to the Matter by application to any court of competent jurisdiction for an injunctive order requiring the immediate performance of such obligations as provided in the preceding sentence until such times as any Matter is resolved as provided in this Article 11.

11.5 With respect to any Matter subject to arbitration under this Article 11, it is agreed that the arbitration provision of this Article I shall be the sole remedy of the Owners under this Agreement. Arbitration awards shall be limited solely to actual damages incurred (plus costs and expenses of enforcement, as provided in Section 11.3 hereof) and no award or compensation shall include or be based on consequential or punitive damages. Notwithstanding any other provisions of this Agreement, the foregoing agreement to arbitrate shall be specifically enforceable under prevailing arbitration law. Any award of the arbitrator shall be final and binding upon the Owners and each Mortgagee and judgment thereon shall be entered by any court having jurisdiction. All proceedings pursuant to this Article II shall be confidential.

ARTICLE 12
CONDEMNATION

12.1 In the event of a taking by the exercise of the power of eminent domain or deed in lieu of condemnation of all or any part of the Total Property by any competent authority for any public or quasi-public use, the award, damages or just compensation (hereinafter in this Article 12, the "Award") resulting from any such taking shall be allocated and disbursed, and any repair and/or restoration of the Improvements shall be performed, in accordance with the requirements of this Article 12.

12.2 In the event of a taking (whether or not a temporary taking) of a part of the Total Property, the Owner of the portion of the Total Property taken shall repair and restore the remainder of such Owner's Improvements to form an architectural and functional whole. Such repair and restoration shall be commenced and pursued to completion in as timely a manner as practicable under the circumstances and shall be at the sole cost and expense of the Owner whose portion of the Total Property is taken. The Owner of the portion of the Total Property taken shall be entitled to receive directly from the taking authority any Award resulting from such taking within such Owner's portion of the Total Property for application to the cost of said repair and restoration and to retain any excess not required for such repair and restoration.

12.3 Notwithstanding any other provision of this Agreement to the contrary, if, as a result of a taking (other than a temporary taking), an Owner reasonably determines that such Owner's portion of the Total Property no longer can be operated on an economically feasible basis, then such Owner shall not be obligated to repair or restore the such Owner's Improvements as may otherwise be required by this Agreement. However, in such case, such Owner shall demolish, repair or restore such Owner's Improvements to the extent, if any, as may be necessary to provide essential services or structural support for the other portions of the Total Property, but only if the Owner of the other portion of the Total Property affected thereby request that it perform such demolition, repair or restoration. Furthermore, such Owner shall weatherproof any exposed portions of such Owner's portion of the Total Property and shall restore such Owner's portion of the Total Property to a sightly and safe condition and in such a manner as to safeguard the other Owner's portion of the Total Property, and to preserve the use of the Easements granted hereunder.

12.4 In the event of a taking of all or substantially all of the Total Property, the Award for such taking administrative proceedings in connection with the taking and paid to the Owners in accordance with said apportionment. Absent such an apportionment, the Owner of the Commercial Property shall receive twenty five percent (25%), and the Owner of the Residential Property shall receive seventy five percent (75%), of the total Award.

ARUCLE 13

ESTOPPEL CERTIFICATES

13.1 Each Owner shall, from time to time, within ten (10) days after receipt of written request from another Owner, execute, acknowledge and deliver to the requesting Owner or to any existing or prospective purchaser or mortgagee designated by the requesting Owner, a certificate (each, an "Estoppel Certificate") in such form as may be Reasonably requested. The Owner of the Commercial Property, if requested to issue an Estoppel Certificate in connection with the purchase and sale or financing of a Unit Ownership, may limit the statements made in the Estoppel Certificate to (i) the existence of any defaults hereunder and (ii) the amount of any liens capable of being asserted hereunder.

13.2 So long as the Residential Property remains subject to the provisions of the Act, an Estoppel Certificate requested from the Owner of the Residential Property shall be issued by the Condominium Association on behalf of the Unit Owners and the Condominium Association and any Estoppel Certificate so issued shall be binding on the Unit Owners and such Condominium Association, and an Estoppel Certificate requested by the Owner of the Residential Property from the Owner of the Commercial Property may only be requested by the Condominium Association on behalf of the Owner of the Residential Property.

ARTICLE 14
ALTERATIONS

14.1 (a) No changes, modifications, alterations, or improvements to the Commercial Property ("Alterations") shall be made without the prior written consent of the Owner of the Residential Property if such Alterations will:

- (i) adversely affect the benefits afforded to the Owner of the Residential Property by any Easement or unreasonably interrupt the Owner of the Residential Property's use or enjoyment of any Easement;
- (ii) adversely affect Facilities benefiting the Residential Property;
- (iii) except as provided in Section 15. I (e), modify the exterior of the Building, including without limitation, awnings;
- (iv) increase the total square footage of the Improvements; or
- (v) affect the zoning status of the Building or Total Property.

(b) If, at any time, the Owner of the Commercial Property proposes to make any Alterations which require or could possibly require the consent of the Owner of the Residential Property, then before commencing or proceeding with such Alterations, the Owner of the Commercial Property shall deliver to the Owner of the Residential Property, a copy of the plans and specifications showing the proposed Alterations and a reference to this Section 14. 1. If the Owner of the Residential Property consents in writing to such Alterations, the Owner of the Commercial Property may proceed to make its Alterations in accordance with said plans and specifications. The Owner of the Residential Property shall make a good faith effort to respond to the Owner of the Commercial Property within twenty-one (21) days after its receipt of said plans and specifications from the Owner of the Commercial Property showing proposed Alterations. If the Owner of the Residential Property shall not have responded within such twenty-one (21) day period, the Owner of the Commercial Property shall

deliver to the Owner of the Residential Property an additional request for a response. If the Owner of the Residential Property fails to respond within thirty (30) days from receipt of the additional request, the plans and specifications for such Alterations shall be deemed approved. If the Owner of the Commercial Property has not requested the Owner of the Residential Property's consent to the proposed Alterations, and if in the good faith opinion of the Owner of the Residential Property, the Owner of the Commercial Property" has violated or will violate the provisions of this Section 14. 1, the Owner of the Residential Property shall notify the Owner of the Commercial Property of its opinion that the Alterations or proposed Alterations violate or will violate the provisions of this Section 14.1 hereof, and shall specify the respect or respects in which its provisions are or will be violated. If the Owner of the Residential Property in good faith asserts a violation of this Section 14. 1, then the Owner of the Commercial Property shall not commence with the Alterations or proceed with the Alterations, if already commenced, until the matter has been resolved. In addition to any other legal or equitable rights or remedies to which the Owner of the Residential Property may be entitled by reason of the Owner of the Commercial Property's violation or likely violation of the provisions of this Section 14. 1, the Owner of the Residential Property shall be entitled to seek and obtain injunctive relief to enjoin any such violation. Failure of a Mortgagee to approve such plans and specifications, if such consent is required pursuant to a Mortgage, shall be grounds for the Owner of the Residential Property to reject such request.

14.2 Applications for building permits to make Alterations shall be filed and processed by each Owner without the joinder of the other Owner in such application, unless the City of Chicago or other government agency having jurisdiction thereof requires joinder of the Owner. If joinder by such Owner is so required, said Owner shall cooperate in executing such application or other instruments as may be necessary to obtain the building permit; provided however, each Owner shall indemnify and hold harmless the other Owner from and against any and all loss, liability, claims, judgments, costs and expenses arising out of the other Owner's execution of the application, permit or other instrument.

14.3 The Owner of the Commercial Property and Owner of the Residential Property each shall include in any construction contract a provision pursuant to which the contractor (i) recognizes the separate ownership of the Total Property and agrees that any lien rights which the contractor or subcontractors have under the Mechanics Lien Act shall only be enforceable against the portion of the Total Property owned by the Owner who employs such contractor, or (ii) agrees that no lien or claim may be filed or maintained by such contractor or any subcontractors against the portion of the Total Property owned by the other Owner and agrees to comply with the provisions of Section 21 of the Illinois Mechanics Lien Act in connection with giving notice of such "no lien" provision.

14.4 Without the written consent of the Owner of the Commercial Property, no Alterations shall be made to the Residential Property which will: (i) adversely affect the benefit afforded to the Owner of the Commercial Property by any Easement; (ii) adversely affect Facilities benefiting the Commercial Property; (iii) increase the total square footage of the Improvements; (iv) alter the Building facade or its appearance; or (v) disturb the use and quiet enjoyment of the Commercial Property.

ARTICLE 15
ADDITIONAL RESTRICTIONS

15.1 Notwithstanding anything contained herein to the contrary, the Commercial Property and the Owner and occupants of the Commercial Property from time to time shall be subject to the following restrictions as to the use of the Commercial Property:

(a) The Owner of the Commercial Property shall not use, allow or occupy the Commercial Property or permit the use or occupancy of the Commercial Property for any purpose or in any manner which (i) is unlawful or in violation of any applicable legal or governmental requirement, ordinance or rule, (ii) is dangerous to persons or property, (iii) invalidates any policy of insurance affecting the Building, and if any additional amounts of insurance premiums are incurred, the Owner of the Commercial Property shall pay to the Owner of the Residential Property the additional amounts within thirty (30) days of demand, (iv) creates a legal nuisance, (v) causes an offensive odor, noise or vibration to emanate from the Commercial Property (provided, however, that the customary odors emanating from a coffee house, including the odors from roasting or brewing coffee beans or sandwich shop, shall not be considered offensive), (vi) is reasonably offensive, disreputable, immoral or illegal, which prohibition shall include, but not be limited to use of all or any portion of the Commercial Property for use as a brothel or for the sale of paraphernalia related to the use of illegal drugs, adult entertainment, books, magazines, videos and other adult products, (vii) engages in the sale of any food or food products cooked at the Commercial Premises, except that the sale, heating or warming of bakery-type products, coffee, teas, spices, salads, pre-made sandwiches, pizza, frozen desserts, frozen novelties and gourmet food items shall be permitted by a coffee house, reading room, meeting hall, retail store or similar business which is not principally a full kitchen restaurant or bar (provided, however, that the preparation of such food products shall be limited to such acts as grinding and brewing coffee or tea and heating or warming bakery products, pizza and sandwiches without a black iron exhaust), (viii) engages in the business of off-track betting, (ix) operates a bar or nightclub, (excluding establishments permitted pursuant to the foregoing clause [vii] of this Section), arcade or amusement facility, (x) engages in a retail liquor store use for off-premises consumption or sells intoxicants, (xi) engages in the sale of pets or pet-related products, cigarettes or other tobacco products or groceries, fresh food or produce or (xii) provides any of the following services: emergency, crisis intervention or "drop-in" counseling, abortion counseling or procedures, political party or campaign offices, veterinarian services, taxidermy, funeral or burial services, or military, military reserve or R.O.T.C. recruitment. The Owner of the Commercial Property shall not use the sidewalks, alley or other areas adjacent to the Commercial Property for any purpose, including without limitation, for demonstrations; provided, however, that the Owner of the Commercial Property and its tenants may use the sidewalks and other areas adjacent to the Commercial Property for outdoor "cafe" seating, for an automatic banking station, or for the display of advertisements and solicitations in the form of a kiosk or similar item, so long as such uses (1) are permitted pursuant to applicable ordinances, rules and regulations of the City of Chicago, (2) are not located in front of the street-level portions of the Residential Property, (3) do not interfere with or impede access to and from the Residential Property and (4) are conducted and maintained in a first class, clean, sanitary manner consistent with the character of retail establishments along neighboring portions of North Avenue. The Owner of the Commercial Property, at its expense or at the expense of its tenants, shall obtain and maintain, or shall cause its tenants to obtain and maintain, at all times during the Term, all licenses and permits necessary for the Owner of the Commercial Property's or such tenants' operations from the Commercial Property and shall post or display in a prominent place in the Commercial Property such permits and/or notices as required by law.

(b) The Owner of the Commercial Property and the occupants thereof shall at all times maintain the Commercial Property in a first-class, clean and sanitary condition, and the Owner of the Commercial Property and the occupants thereof shall promptly comply with all laws and ordinances and lawful orders and regulations affecting the Commercial Property and the cleanliness, safety, occupancy and use of same. The Owner of the Commercial Property shall comply with all of the requirements of all governmental authorities and the Owner of the Residential Property's fire insurance carriers now or hereafter in force pertaining to the use of the Commercial Property. The Owner of the Commercial Property agrees that all receiving of goods and merchandise and all removal of delivery of merchandise, supplies, equipment trash and garbage shall be made either through the front of the Commercial Property or by way of the side or rear of the Commercial Property through the parking area of the Commercial Property and the alley to the north of the Building and in

accordance with reasonable procedures and at the hours reasonably specified, from time to time, by the Owner of the Residential Property (provided such hours shall be not less than 6 A.M. to 9 P.M. Mondays through Sundays).

(c) The Owner of the Commercial Property shall not be open to the public for business between the hours of 11:00 P.M. and 5:30 A.M., without prior written consent from the Owner of the Residential Property, which consent shall not be unreasonably withheld or delayed.

(d) The Owner of the Commercial Property shall not cause or permit to occur: (i) any violation of any present or future federal, state or local law, ordinance or regulation related to environmental conditions in or about the Commercial Property, including, but not limited to, improvements or alterations made to the Commercial Property at any time by the Owner of the Commercial Property, its agents or contractors, or (ii) the use, generation, release, manufacture, refuting, production, processing, storage or disposal of any "Hazardous Substances" (as hereinafter defined) in or about the Commercial Property, or the transportation to or from the Commercial Property of any Hazardous Substances, except as used in the normal and customary cleaning and maintenance of the Commercial Property, provided the same are stored, used and disposed of in compliance with all applicable laws, statutes, ordinances and regulations regarding Hazardous Substances. The Owner of the Commercial Property, at its expense, shall comply with each present and future federal state and local law, ordinance and regulation related to environmental conditions in or about the Commercial Property or the Owner of the Commercial Property's use of the Commercial Property, including, without limitation, all reporting requirements and the performance of any cleanups required by any governmental authorities. The Owner of the Commercial Property shall indemnify, defend and hold harmless the Owner of the Residential Property and its agents, contractors and employees from and against all fines, suits, claims, actions, damages, liabilities, costs and expenses (including attorneys' and consultants' fees) asserted against or sustained by any such person or entity arising out of or in any way connected with the Owner of the Commercial Property's failure to comply with its obligations under this Subsection, which obligations shall survive the expiration or termination of this Agreement. As used in this Subsection, "Hazardous Substances" shall include, without limitation, flammables, explosives, radioactive materials, asbestos containing materials (ACMs), polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances, petroleum and petroleum products, chloroflurocarbons (CFCs) and substances declared to be hazardous or toxic under any present or future federal, state or local law, ordinance or regulation.

(e) The Owner of the Commercial Property or the tenant thereof shall have the right to install up to the lesser of (i) the maximum number of exterior signs permitted pursuant to applicable municipal codes or (ii) six (6) exterior signs on the facade of the Commercial Property, which signs shall not to exceed a total of the lesser of (1) the maximum number of square inches permitted pursuant to applicable municipal codes or (2) 300 square inches each and shall be either unlit or backlit. No sign shall display or advertise any "sale" for more than four (4) consecutive weeks or for more than four (4) of any eight (8) weeks and any such "sale" or similar special or promotion shall not be repeated for four (4) weeks. No "for sale", "going out of business" or "liquidation" signs shall be permitted. Only a licensed real estate broker or owner of the Commercial Space may display a "for lease" or similar sign. All signs for businesses operating in the Commercial Property shall comply with all requirements of applicable municipal codes and be of a consistent type, size and appearance according to a standard signage policy developed, maintained and consistently applied by the Owner of the Commercial Property. Without limiting the generality of the foregoing, no such exterior sign shall contain any strobe lights, moving parts or day-glow colors. In addition, the Owner of the Commercial Property or the tenants thereof may display in the windows of the Commercial Property such party's hours of operation and other signage consistent with the operation of first-class businesses. Notwithstanding anything to the contrary contained in this Agreement, the Owner of the Commercial Property and any tenants thereof shall have the free and unfettered

right to modify, alter, change, remove, replace, repair or add nonstructural demising walls, partitions and systems contained within the entirely within the Commercial Property and to paint, decorate, carpet and otherwise improve the Commercial Property. Except for the foregoing, all signs, pictures, advertisements or notices the Owner of the Commercial Property or the tenant thereof desires to place outside the Building shall be subject to the approval of the Owner of the Residential Property in accordance with the procedures set forth in Article 14 hereof, provided, however, that such consent shall not be unreasonably withheld or unduly delayed. No one other than Beneficiary or its contractors, employees or agents shall have the right to use the image or likeness of the Building, its address number or name in any sign, promotion, flier, advertisement, product or company name without Beneficiary's prior written consent until such time as Beneficiary no longer has any legal or equitable interest in the Total Property or any part thereof.

ARTICLE 16 NOTICES

16.1 All notices, demands, elections or other communications required, permitted or desired to be served hereunder ("Notices") shall be in writing and shall be delivered in person (or conspicuously posted if delivery is refused or otherwise unable to be made) or mailed as certified or registered matter, postage prepaid, return receipt requested, addressed as below stated:

If to the Owner of the Residential Property:

1700 West North Avenue Residential Building
1702 West North Avenue
Chicago, Illinois 60622
Attention: President

If to the Owner of the Commercial Property:

North and Paulina Development L.L.C.
c/o Leon Teichner
180 North LaSalle Street, Ste, 1601
Chicago, IL 60601

16.2 Any Notice delivered as aforesaid shall be deemed received (a) when delivered and receipted for if hand-delivered, (b) one (1) day after posting or (c) two (2) business days after deposit in the United States Mail, or (d) upon actual receipt whichever is earlier. Addresses for service of Notice may be changed by written notice served as hereinabove provided at least ten (10) days prior to the effective date of any such change. Nothing herein contained, however, shall be construed to preclude service of any Notice in the same manner that service of a summons or legal process may be made.

ARTICLE 17 LIMITATION OF LIABILITY

17.1 No Owner shall be liable for interruption or inadequacy of service, loss or damage to property or injury (including death) to any person for any reason. Each Owner obligated hereunder is reserved the right to curtail or halt the performance of any service hereunder at any time in reasonable respects for a reasonable period of time to make necessary repaired or in case of an Emergency Situation.

17.2 In the event of any conveyance or divestiture of title to any portion of or interest in any portion of the Total Property: (1) the Owner who is divested of title shall be entirely freed and relieved of all covenants and obligations thereafter accruing hereunder but only with respect to any such portion or interest conveyed or divested; and (2) the grantee or the person or persons or other entity or entities who succeed to title shall be deemed to have assumed all of the covenants and obligations of the Owner of such portion or interest thereafter accruing hereunder, until such grantee or successor is itself freed and relieved therefrom as hereinabove provided in this Section 17.2, and then any such grantee's or successor grantee or successor shall thereafter be so bound.

17.3 The enforcement of any rights or obligations contained in this Agreement against an Owner of any portion of the Total Property shall be limited to the interest of such Owner in the Total Property. No judgment against any Owner of any portion of the Total Property shall be subject to execution, or be a lien on any assets of, such Owner other than Owner's interest in the Total Property.

ARTICLE 18
DEPOSITARY

18.1 A depositary (the "Depositary") shall be appointed to receive the insurance proceeds and condemnation awards described above, to disburse such proceeds and awards and to act otherwise in accordance with this Agreement. Except as otherwise provided hereunder, and subject to the rights of Mortgagees, all insurance proceeds under Articles 8 and 9 and condemnation awards under Article 12 shall be paid to the Depositary. The Depositary shall be selected by the Owners jointly and shall be a title insurance company, trust company or bank with offices in the City of Chicago. If the Owners cannot agree on the Depositary within thirty (30) days after a casualty or final agreement as to the amount of a condemnation award, one shall be selected pursuant to Article 11 hereof. If the Depositary resigns, a substitute Depositary shall be selected in the same manner as set forth in this Section 18.1 within thirty (30) days after the resigning Depositary notifies the Owner or Owners affected in writing.

18.2 Each Owner whose portion of the Total Property is the subject of any such casualty or condemnation shall be obligated to pay the reasonable fees and expenses of the Depositary in proportion to the proceeds from the applicable insurance policies or condemnation awards. Each such Owner and the Depositary shall execute an agreement (the "Escrow Agreement") regarding the Depositary's rights and obligations and the conditions pursuant to which the Depositary shall act, such agreement in form and content acceptable to the parties thereto and in accordance with the provisions of this Agreement. The Escrow Agreement may be in the form of the customary construction escrow then in use by the Depositary in Chicago, Illinois, with such changes as may be recruited to conform to this Agreement.

18.3 All funds held by the Depositary shall be held in trust and deposited in an interest bearing account (the "Escrow") for the benefit of the Owner or Owners whose insurance proceeds or condemnation awards are so deposited. Notwithstanding anything contained herein to the contrary, any insurance proceeds or condemnation awards claimed by a Mortgagee shall be paid to such Mortgagee and any proceeds or condemnation awards of less than \$50,000.00 shall be paid directly to the party so entitled rather than to the Depositary unless the proceeds or condemnation awards are paid to more than one Owner.

18.4 Each request by an Owner or its agent (including its contractor) acting pursuant to this Agreement or the Escrow Agreement for disbursement of funds held in the Escrow shall be accompanied by a customary owner's sworn statement, a contractor's sworn statement; supporting lien waivers, together with an architect's (or, if the Depositary shall accept, an Owner's) certification that (a) the sum requested has been paid

by or on behalf of the Owner or Owners requesting such funds, (b) the sum is justly due to the Owner, Owners, contractors, subcontractors and other parties set forth in said owner's sworn statement, (c) briefly describes the work completed, services rendered and materials supplied and the amounts due for such work, services and materials, (d) states that the sum requested plus sums previously disbursed do not exceed the cost of the work in place, the services rendered and materials supplied and stored at the Total Property to date, (e) states that no part of the cost of work, services or materials requested have been the basis of a previous or pending withdrawal from the Escrow and (f) states that the cost to complete the unfinished work will not exceed the funds held by the Depository after payment of the current request. If the architect (or Owner) cannot or will not certify (f) above, the Owner or Owners who are party to the Escrow Agreement and who accordingly have caused the budget for the repairs and restoration to become out of balance shall first pay or provide a source of payment of such funds in order to bring the budget back in balance again before the Depository shall be obligated to pay funds from the Escrow pursuant to Section 18.5 hereof.

18.5 Upon satisfaction of the requirements of Section 18.4 (but not more frequently than once in each calendar month) and upon approval of the Owners, any Mortgagees holding approval rights concerning the repairs or restoration and the title insurer providing title coverage over the work being performed at the Total Property, the Depository shall, out of the Escrow and subject to such retention as set forth in the Escrow Agreement, pay or cause to be paid to the Owners, contractors, subcontractors, materialmen, service providers and other parties named in the owner's and contractor's sworn statements the respective amounts stated in said statements due such parties. The Depository may rely conclusively, with respect to the information contained therein, on any certificate, authorization or statement furnished the Depository by an Owner in accordance with this Article 18 and the Depository shall not be liable or accountable for any disbursement of funds from the Escrow made by it in reliance upon such certificate, authorization or statement.

ARTICLE 19
GENERAL

19.1 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 Total Property and the harmonious relationship between the Owners and to protect the value of each Owner's respective portion, estate or interest in the Total Property. To that end, each Owner shall share information which it possesses relating to matters which are the subject of this Agreement, except such information as such Owner may reasonably deem confidential or which may be the subject of litigation and which such Owner is prohibited from revealing pursuant to court order. From time to time after the date hereof, each Owner shall furnish, execute and acknowledge, without charge (except where elsewhere provided herein) (i) such other instruments, documents, materials and information as any other Owner hereto 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 or increase such Owner's burdens hereunder; and (ii) such grants of Easements to and agreements with utility companies as any other Owner hereto may reasonably request in order to enable such utility company to furnish utility services as required by such Owner, provided that any Mortgagee which holds any Mortgage on the portions of the Total Property on which such Easement is granted have first consented in writing to such Easements.

19.2 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.

19.3 The headings of Articles 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.

19.4(a) Except as otherwise provided herein, this Agreement may be amended or terminated only by an instrument signed by the Owners and the Mortgagee. Any amendment to or termination of this Agreement shall be recorded with the Recorder.

(b) Declarant reserves the right and power to record a special amendment (a "Special Amendment") to this Agreement at any time and from time to time which amends this Agreement to correct clerical or typographical errors in this Agreement. A Special Amendment may also contain such complementary and supplemental grants and reservations of Easements as may be necessary in order to effectuate the Maintenance, operation and administration of the Total Property. Declarant also reserves the right to include, within a Special Amendment, revisions to the legal descriptions of the Residential Property and Commercial Property. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of the other Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting any portion of the Total Property, and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to Declarant to vote in favor of, make, execute and record Special Amendments. The right of Declarant to act pursuant to rights reserved or granted under this Section shall terminate at such time as Declarant no longer holds or controls title to any portion of the Total Property.

19.5 The covenants, conditions and restrictions contained in this Agreement shall be enforceable by the Owners and their respective successors and assigns for a term of forty (40) years from the date this Agreement is recorded, after which time said covenants, conditions and restrictions shall be automatically extended without further act or deed of the Owners, except as may be required by law and as provided below, for successive periods of ten (10) years, subject to amendment or termination as hereinabove set forth in Section 19.4; provided, however, that this Agreement, and all Easements, covenants, conditions and restrictions contained herein, shall terminate and be deemed abrogated (i) as may be provided in Section 9.5 or (ii) upon the demolition or destruction of all of the Improvements and the failure to restore or rebuild the same within five (5) years after such demolition or destruction. If and to the extent that any of the covenants would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (e) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provision concerned shall continue and endure only until the expiration of a period of twenty-one (21) years after the date of the last to survive of the class of persona consisting of all of the lawful descendants of William J. Clinton, President of the United States of America, living at the date of this Agreement.

19.6 If the Owner of the Commercial Property is required to obtain the consent of the Owner of the Residential Property for any matter hereunder, the Owner of the Commercial Property shall deliver to the Owner of the Residential Property a written request for such consent together with all information and documentation necessary for the Owner of the Residential Property to evaluate such request. If the Owner of the Residential Property shall not have responded to such request within twenty-one (21) days from the date of receipt of such request and all such information and documentation, the Owner of the Commercial Property shall deliver to the Owner of the Residential Property an additional request for a response. If the Owner of the Residential Property fails to respond within twenty-one (21) days from receipt of the additional request, the matter for which the request was sought shall be deemed approved. In all events, the Owner of the Residential

Property shall give or withhold its consent reasonably, and shall provide the Owner of the Commercial Property with a reasonable explanation for withholding its consent, if such consent is withheld.

19.7 The provisions of this Agreement shall be construed to the end that the Total Property shall remain a first-class property.

19.8 All the Easements, covenants, restrictions and conditions herein contained shall run with the land and shall inure to the benefit of and be binding upon Declarant and each subsequent holder of any interest in any portion of the Total Property and their grantees, mortgagees, heirs, successors, personal representatives and assigns with the same full force and effect for all purposes as though set forth at length in each and every conveyance of the Total Property or any part thereof.

19.9 Easements created hereunder shall not be presumed abandoned by nonuse or the occurrence of damage or destruction of a portion of the Improvements subject to an Easement unless the Owner benefited by such Easement states in writing its intention to abandon the Easement or unless the Easement has been abandoned for a period in excess of ten (10) years and no response to a notice inquiring about the apparent abandonment is received within ninety (90) days after the delivery of such notice.

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

19.11 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 any Mortgagee) under any statutes, laws, codes, ordinances, rules, regulations, orders, decrees or otherwise.

19.12 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.

19.13 No charges shall be made for any Easements or rights granted hereunder unless otherwise provided or permitted under the terms of this Agreement.

19.14 NO PERSONAL LIABILITY OR PERSONAL RESPONSIBILITY IS ASSUMED BY, NOR SHALL AT ANY TIME BE ASSERTED OR ENFORCED AGAINST DECLARANT, ITS AGENTS OR EMPLOYEES ON ACCOUNT HEREOF OR ON ACCOUNT OF ANY COVENANT, UNDERTAKING OR AGREEMENT HEREIN, EITHER EXPRESS OR IMPLIED, ALL SUCH PERSONAL LIABILITY, IF ANY, BEING HEREBY EXPRESSLY WAIVED AND RELEASED BY EVERY PERSON NOW OR HEREAFTER CLAIMING ANY RIGHT HEREUNDER. ANYTHING HEREIN CONTAINED TO THE CONTRARY NOTWITHSTANDING, IT IS UNDERSTOOD AND AGREED THAT DECLARANT SHALL HAVE NO OBLIGATION TO SEE TO THE PERFORMANCE OR NON-PERFORMANCE OF ANY OF THE COVENANTS HEREIN CONTAINED AND SHALL NOT BE PERSONALLY LIABLE FOR ANY ACTION OR NON-ACTION TAKEN IN VIOLATION OF ANY OF THE COVENANTS HEREIN CONTAINED.

UNOFFICIAL COPY

00166328

IN WITNESS WHEREOF, Declarant has caused this Agreement to be executed and sealed as of this ____ day of February, 2000.

MIDTOWN BANK AND TRUST COMPANY OF CHICAGO,
not personally, but solely as Trustee under that certain Trust
Agreement dated July 9, 1997 and known as Trust Number 2143

This instrument is executed by Mid Town Bank & Trust Co. of Chicago personally but solely as trustee, as aforesaid. All the covenants and conditions to be performed hereunder by Mid Town Bank & Trust Co. of Chicago are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be asserted or be enforceable against Mid Town Bank & Trust Co. of Chicago by reason of any of the covenants, statements, representations or warranties contained in this instrument.

BY: [Signature]
Printed Name: Deborah M. Stephanites
Title: Trust Officer

By: [Signature]
Printed Name: Judith Sarmiento
Title: Asst. Secretary

NORTH AND PAULINA DEVELOPMENT L.L.C.
AN ILLINOIS LIABILITY COMPANY

BY: _____
PRINTED NAME: _____
TITLE: _____

Property of Cook County Clerk's Office

STATE OF ILLINOIS)
)SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that ~~DEROAH STEPHANIDES~~^{M.} the TRUST OFFICER of Midtown Bank and Trust Company of Chicago, as Trustee, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such member, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, as the free and voluntary act of said Trustee, for the uses and purposes therein set forth.

GIVEN, under my hand and Notarial Seal this 24th day of February, 2000.

Hattie L. Flowers
Notary Public

My Commission Expires: 9-11-2002

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)



The undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ authorized agent of North and Paulina Development, L.L.C. an Illinois Limited Liability Company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such member, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, as the free and voluntary act of said corporation, acting in its capacity and as the free and voluntary act of North and Paulina Development, L.L.C., an Illinois limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this day of _____, 2000.

UNOFFICIAL COPY

00166328

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

CONSENT OF MORTGAGEE

Midtown Bank and Trust Company of Chicago, holder of a certain Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing (the "Mortgage") on the Property dated as of November 12, 1998 and recorded as Document Number 08086910 hereby consents to the execution, delivery and recording of the Declaration of Covenants, Conditions, Restrictions and Reciprocal Easements for 1700 West North Avenue, Chicago, Illinois (the "Declaration") and agrees that the lien of the Mortgage is subordinate to the Declaration.

IN WITNESS WHEREOF, Midtown Bank and Trust Company of Chicago has caused this Consent of Mortgagee to be signed by its duly authorized officer on its behalf; all done at Palatine, Illinois, on this ____ day of February, 2000.

MIDTOWN BANK AND TRUST COMPANY OF CHICAGO

By: [Signature]
Its: Senior Vice Pres.

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

I, a Notary Public in and for said County and State, do hereby certify that David S. Grzenia, the Sr. Vice President of Midtown Bank and Trust Company of Chicago, a state chartered bank, as such appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act, and as the free and voluntary act of said bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 20th day of February, 2000.

Hattie L. Flowers
Notary Public

My Commission Expires: 9-11-2002

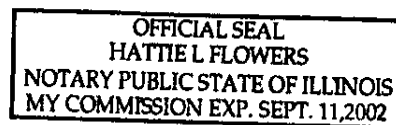


EXHIBIT A
TO DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND RECIPROCAL EASEMENTS
FOR 1700 WEST NORTH AVENUE,
CHICAGO, ILLINOIS

Legal Description of Parcel

LOTS 83, 84, 85 AND 86 IN FITCH'S RESUBDIVISION OF BLOCK 26 IN SHEFFIELD'S ADDITION TO CHICAGO IN SECTION 29, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property Address: 1700 West North Avenue
Chicago, Illinois 60657

P.I.N.S: 14-31-429-031-0000
14-31-429-032-0000

UNOFFICIAL COPY

00166328

EXHIBIT B
TO DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND RECIPROCAL EASEMENTS
FOR 1700 WEST NORTH AVENUE,
CHICAGO, ILLINOIS

Legal Description of Residential Property

P.I.N. 14-31-429-031-0000
14-31-429-032-0000

LOTS 83, 84, 85 AND 86, TAKEN AS A TRACT (EXCEPT THE NORTH 42.50 FEET OF THE EAST 81.73 FEET THEREOF) AND (EXCEPT COMMERCIAL UNITS AS SITUATED ON THE FIRST FLOOR OF THE 1700 WEST NORTH AVENUE BUILDING, LYING ABOVE A HORIZONTAL PLANE OF ELEVATION + 19.72 FEET ASSUMED AND LYING BELOW A HORIZONTAL PLANE OF ELEVATION + 29.72 FEET ASSUMED) IN FITCH'S RESUBDIVISION OF BLOCK 26 IN SHEFFIELD'S ADDITION TO CHICAGO, IN COOK COUNTY ILLINOIS, IN SECTION 31, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**EXHIBIT C
TO DECLARATION OF COVEMENTS, CONDITIONS,
RESTRICTIONS AND RECIPROCAL EASEMENTS
FOR 1700 WEST NORTH AVENUE,
CHICAGO, ILLINOIS**

Legal Description of Commercial Property

P.I.N. 14-31-429-031-0000

14-31-429-032-0000

COMMERCIAL UNITS AS SITUATED ON THE FIRST FLOOR OF THE 1700 WEST NORTH AVENUE BUILDING, LYING ABOVE A HORIZONTAL PLANE OF ELEVATION + 19.72 FEET (ASSUMED) AND LYING BELOW A HORIZONTAL PLANE OF ELEVATION +29.72 FEET (ASSUMED), OF THAT PART OF LOTS 83, 84, 85 AND 86, TAKEN AS A TRACT, (EXCEPT THE NORTH 42.50 FEET OF THE EAST 81.73 FEET THEREOF) IN FITCH'S RESUBDIVISION OF BLOCK 26 IN SHEFFIELD'S ADDITION TO CHICAGO, IN COOK COUNTY, ILLINOIS, IN SECTION 31, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

KNOWN AS 1700 W. NORTH AVENUE, CHICAGO, ILLINOIS