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TO:

Laurence J. DeVries  
566 West Adams, Suite 600  
Chicago, Illinois 60661  
(312) 382-7600



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Eugene "Gene" Moore Fee: \$56.00  
Cook County Recorder of Deeds  
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## FIRST SPECIAL AMENDMENT TO DECLARATION OF CONDOMINIUM OWNERSHIP AND OF EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS FOR 1409 WEST FARWELL CONDOMINIUMS AND PROVISIONS RELATING TO COMMERCIAL PROPERTY

THIS FIRST SPECIAL AMENDMENT TO DECLARATION is made and entered this 27 day of July, 2004, by 1409 FARWELL LLC, an Illinois limited liability company ("Declarant").

### RECITALS:

A. On July 18, 2002, Declarant recorded that certain Declaration of Condominium Ownership and of Easements, Restrictions, Covenants and By-Laws for 1409 West Farwell Condominiums and Provisions Relating To Commercial Property (the "Original Declaration"), which was recorded as document #0020788580 and re-recorded as document #0020789503.

B. The Original Declaration was recorded with respect to the real property legally described in Exhibit A hereto

C. When the Original Declaration was recorded, the Bylaws, which were to be attached as Exhibit D, were inadvertently omitted.

RECORDING FEE # 56  
DATE 9-21-04 COPIES 6  
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D. Section 4 of Article XV of the Original Declaration permits the Declarant to file a special amendment to the Original Declaration to correct errors and to bring the Original Declaration in compliance with the Illinois Condominium Property Act.

NOW, THEREFORE, Declarant, pursuant to the provisions of Section 4 of Article XV of the Original Declaration, hereby amends the Original Declaration to incorporate and record the Bylaws attached hereto as Exhibit B as the original Exhibit D to the Original Declaration.

**IN WITNESS WHEREOF**, 1409 FARWELL L.L.C., an Illinois limited liability company has executed this document as of the day and year first above written.

1409 FARWELL L.L.C., an Illinois limited liability company

By: Marci Sepulveda, Inc., an Illinois corporation

By: [Signature]  
Marci Heichman, its president

By: [Signature]  
Janet Gross, Member

By: [Signature]  
Scott Kohn, Member

STATE OF ILLINOIS )  
                                  ) SS.  
COUNTY OF COOK    )



I, Judi Gordon a notary public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that Marci Heichman, as president of Marci Sepulveda, Inc., Janet Gross, and Scott Kohn, each of the members of 1409 FARWELL L.L.C., an Illinois limited liability company, personally known to me to be the same persons whose names are subscribed to the foregoing Declaration, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument, on behalf of the limited liability company and as their free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 27<sup>th</sup> day of July, 2004.

**UNOFFICIAL COPY***Judi Gordon*

Notary Public

**CONSENT OF MORTGAGEE**

Northside Community Bank-Gurnee ("Bank"), hereby consents to the execution and recording of the attached First Amendment to Declaration of Condominium Ownership and of Easements, Restrictions, Covenants and By-Laws for The 1409 West Farwell Condominiums and Provisions Relating to Commercial Property and agrees that said Mortgage is subject thereto.

**IN WITNESS WHEREOF**, the said Bank has caused this Consent of Mortgagee to be signed by its duly authorized officers on its behalf in Illinois, on this 5<sup>th</sup> day of Aug, 2004.

Northside Community Bank-Gurnee

By: *Nancy A. Milota*Name: NANCY A. MILOTATitle: VICE PRESIDENT

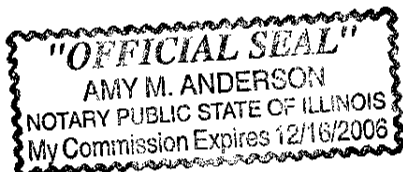
STATE OF ILLINOIS   )  
   ) SS.  
 COUNTY OF COOK    )

I, Amy M Anderson a Notary Public in and for said County and State, **DO HEREBY CERTIFY** that Nancy A. Milota Vice President of and \_\_\_\_\_ respectively, Secretary of Northside Community Bank-Gurnee as such vice president and secretary and appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said Company, for the uses and purposes therein set forth.

**GIVEN** under my hand and notarial seal this 5<sup>th</sup> day of August, 2004.

*Amy M Anderson*

Notary Public



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## Exhibit A

### Legal Description of Real Estate

LOTS 2 AND 3 IN BLOCK 41 IN ORIGINAL TOWN OF ROGERS PARK, NOW CITY OF CHICAGO, IN SECTION 32, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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## Exhibit B

### **BY-LAWS FOR THE 1409 WEST FARWELL CONDOMINIUM ASSOCIATION**

Unless otherwise defined in these By-Laws, all defined terms shall have the meaning ascribed to them in the Declaration of Condominium Ownership for the 1409 West Farwell Condominiums (the "Declaration").

#### **SECTION ONE**

##### **ADMINISTRATION OF THE PROPERTY**

The direction and administration of the Property shall be vested in a Board of Managers (the "Board") of the Association (hereinafter described); provided, however, that for a period commencing on the date of recording of the Declaration and ending with the date of the initial meeting of the Board, the same rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board by the Act and the Declaration shall be held and performed by the Declarant and the Developer, and, except as otherwise provided in the Act, the acts and agreements made by the Declarant and the Developer with respect to the Property shall be binding upon the Board. Each member of the Board shall be an Owner or contract purchaser as defined in Section 6(c) of these By-Laws. If an Owner or contract purchaser is a corporation, partnership, trust or other legal entity other than a natural individual, then any one (1) officer, director or other designated agent of such corporation, partner or other designated agent of such partnership, beneficiary or other designated agent of such trust or manager of such other legal entity shall be eligible to serve as a member of the Board. A majority of the Board must be residents of the Property if in fact such a majority resides in the Property and is willing to serve on the Board.

#### **SECTION TWO**

##### **ASSOCIATION**

The 1409 West Farwell Condominium Association (herein called the "Association"), acting through the Board, shall be the governing body for all the Owners for the maintenance, repair, replacement, administration and operation of the Property. The Association shall represent the Owners in any proceedings, negotiations, settlements or agreements relating to the handling of any losses or proceeds from condemnation, destruction or liquidation of all or any part of the Property or from the termination of the condominium status of the Property; and said representation by the Association shall be as attorney-in-fact (with an interest) of the respective Owners who hereby irrevocably so appoint the Association. The Association shall not engage in or be deemed to be engaged in any business of any kind. Every Owner shall be a member

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therein, which membership shall automatically terminate upon the sale, transfer or other disposition of such Owner's Unit Ownership, at which time the new Owner shall automatically become a member therein. The Association shall have one (1) class of membership. Declarant, prior to the election of the first Board, and the Board at any time thereafter, may cause the Association to be incorporated as a Not-For-Profit Corporation under the General Not-For-Profit Corporation Act of the State of Illinois; and in such event, the Board of Directors of the Association shall be deemed to be the Board of Managers referred to herein and in the Act.

## SECTION THREE

### VOTING RIGHTS

A. **Votes.** The total number of votes of all Owners shall be one hundred (100), and each Owner shall be entitled to the number of votes equal to the percentage of ownership in the Common Elements applicable to the Unit Ownership represented by such Owner, as set forth in Exhibit "C" of the Declaration. For purposes of voting and sitting on the Board, the Developer or its designee shall be the Owner with respect to any Unit Ownership owned by Declarant. An Owner may vote by proxy executed in writing by him or by his duly authorized attorney-in-fact. The proxy shall be invalid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy, and the proxy must bear the date of execution. Any proxy distributed for Board elections must give the owner the opportunity to designate any persons the proxy holder and give the owner the opportunity to express a preference for any known candidates for the Board or to write in a name.

B. **Multiple Owners.** If there are multiple Owners with respect to a Unit Ownership and if only one (1) of such multiple Owners is present at a meeting of the Association, he/she shall be entitled to cast the vote allocated to that Unit Ownership; however, if more than one (1) of the multiple Owners are present, the vote allocated to the Unit Ownership may be cast only in accordance with the agreement of a majority of the multiple Owners present. For purposes of this paragraph, there is majority agreement if any one (1) of the multiple Owners casts the vote allocated to that Unit Ownership without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit Ownership. Only one (1) of the multiple Owners may serve on the Board at any given time.

## SECTION FOUR

### MEETINGS

A. **General Provisions.** Meetings of the Association shall be held at the Property or at such other place in the State of Illinois as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of the Owners having twenty percent (20%) of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Owners at which a quorum is present upon the affirmative vote of the Owners having a majority of the total votes present at such meeting. Matters subject

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to affirmative vote of Owners having two-thirds (2/3) or more of the total votes at a meeting duly called for that purpose shall include, but not be limited to: (1) merger or consolidation of the Association; (2) sale, lease, exchange, mortgage, pledge or other disposition of all or substantially all of the property and assets of the Association; and (3) the purchase or sale of land or of Units on behalf of all Owners; and (4) subject to the provisions of the Act, the commencement of any type of litigation, except for actions in forcible entry and detainer to collect assessments.

B. **Initial and Annual Meeting.** The initial meeting of the Association shall be held upon not less than ten (10) nor more than thirty (30) days' prior written notice given by Declarant or Developer to the Owners. Such initial meeting shall be held not later than sixty (60) days after the Turnover Date as defined in the Declaration. The formation or incorporation of the Association by Declarant or Developer shall not require Declarant or Developer to call the initial meeting of the Association any earlier than provided in the preceding sentence. Thereafter, there shall be an annual meeting of the Association on the thirtieth (30th) day of June of each succeeding year thereafter at 7:30 P.M., or at such other reasonable time or date (not more than thirty (30) days before or after such date) as may be designated in a written notice from the Board. One of the purposes of the annual meeting shall be to elect members of the Board of Managers.

C. **Special Meetings.** Special meetings of the Association may be called at any time upon written notice for the purpose of considering matters which, by the terms of the Declaration or under the Act, require the approval of all or some of the Owners, or for any other reasonable purpose. Special meetings may be called by the President of the Association, twenty-five percent (25%) of the members of the Board or by the Owners having twenty percent (20%) or more of the total votes.

## **SECTION FIVE**

### **NOTICES OF MEETINGS**

Notices of annual and special meetings shall be given pursuant to the provisions of Paragraph 7 of Article XIII of the Declaration. Written notice of any membership meeting shall be mailed or delivered to Owners no less than ten (10) and no more than thirty (30) days prior to the meeting and said notice shall state the time, place and purpose of such meeting.

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## SECTION SIX

### BOARD OF MANAGERS (BOARD OF DIRECTORS)

#### A. Election.

1. At the initial meeting and at each annual meeting thereafter, the Owners shall elect a Board of Managers, all of whom shall be elected at large. If there are multiple owners of a single unit only one (1) of the multiple owners shall be eligible to serve as a member of the Board at any one (1) time.

2. The Board shall consist of five (5) members, except that until the election of the first Board by the Owners, the Board shall consist of three (3) members. At the initial meeting of the Owners, a full Board shall be elected, three (3) of whom shall serve a two year term and two (2) of whom shall serve a one year term. The candidates receiving the three (3) highest number of votes shall be elected to serve a two year term. Thereafter, each member of the Board shall serve two year terms.

3. Each member of the Board shall hold office until a successor shall have been duly elected and qualified; provided that Board members may succeed themselves. Members of the Board shall receive no compensation for their services, unless expressly allowed by the Board and approved by the Owners having two-thirds (2/3) or more of the total votes.

4. The Board may disseminate to Unit Owners biographical and background information about candidates for election to the Board if: (1) no preference is expressed in favor of any candidate; and (2) reasonable efforts to identify all candidates are made and all candidates are given an opportunity to include biographical and background information in the information to be disseminated.

B. Counting of Election Ballots. A candidate for election to the Board or such candidate's representative shall have the right to be present at the counting of ballots at such election.

C. Contract Purchasers. The purchaser of a Unit from a seller other than the Declarant or the Developer pursuant to an installment contract for purchase shall during such times as he or she resides in the Unit be counted toward a quorum for purposes of election of members of the Board at any meeting of the Owners called for purposes of electing members of the Board, and shall have the right to vote for the election of members of the Board and to be elected to and serve on the Board unless the seller expressly retains in writing any or all of such rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office or be elected and serve on the Board. Satisfactory evidence of the installment contract shall be made available to the Association or its agents. For purposes of this subparagraph, "installment contract" shall have the same meaning as set forth in Section 1(e) of



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"An Act relating to installment contracts to sell dwelling structures" approved August 11, 1967, as from time to time amended.

D. **Vacancies.** Vacancies on the Board due to resignation, removal or death, shall be filled by the remaining members of the Board by two-thirds (2/3) vote until the next annual meeting of the Association or for a period terminating no later than thirty (30) days following the filing of a petition signed by Owners holding twenty percent (20%) of the votes in the Association requesting a meeting of the Association to fill the vacancy on the Board.

E. **Management of Property.** Except as otherwise provided in the Declaration, the Property shall be managed by the Board and the Board shall act by majority vote of those present at its meetings when a quorum exists. A majority of the Board shall constitute a quorum.

F. **Meetings.** Meetings of the Board may be called, held and conducted in accordance with such rules and regulations as the Board may adopt. Meetings of the Board shall be open to any Owner, except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the Association or an Owner's unpaid share of Common Expenses; however, any vote on these matters shall be taken at a meeting or portion thereof open to any Owner. Any Owner may record the proceedings of meetings, or portions thereof, required to be open by the Act by tape, film or other means, subject to such reasonable rules and regulations as the Board may prescribe. Notice of such meetings shall be mailed or delivered to Board members at least forty-eight (48) hours prior thereto unless a written waiver of such notice is signed by the person or persons entitled to such notice before the meeting is convened. In addition, such copies of notices of meetings of the Board shall be posted in entranceways or other conspicuous places on the Property at least forty-eight (48) hours prior to the meeting of the Board. The Board may designate one or more locations in the proximity of the Units where the notice of meetings shall be posted. The Board shall meet at least four (4) times annually. A majority of the total members of the Board shall constitute a quorum.

G. **Officers.** The Board shall elect the following officers from among the members of the Board: a President who shall preside over both its meetings and those of the Association, and who shall be the chief executive officer of the Board and the Association; a Secretary who shall keep the minutes of all meetings of the Board and of the Association and who shall, in general, perform all the duties incident to the office of Secretary; a Treasurer who shall keep the financial records and books of account; and such additional officers as the Board shall see fit to elect. Such officers shall serve at the will of the Board, which shall fill any vacancies. Officers shall be elected at the first meeting of the Board immediately following the initial meeting and each annual meeting thereafter of the Association.

H. **Removal.** Any Board member may be removed from office by affirmative vote of the Owners having two-thirds (2/3) or more of the total votes, at any annual or special meeting

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of the Association called for that purpose. A successor to fill the unexpired term of a Board member so removed may be elected by the Owners at the same meeting or any subsequent meeting called for that purpose. This right of removal shall not apply to any Board member selected by Declarant or Developer.

## SECTION SEVEN

### GENERAL POWERS AND DUTIES OF THE BOARD

The Board, for the benefit of all the Owners, shall acquire the following goods and services and do any of the following things, and shall pay for such goods, services and things as a common expense as follows:

A. **Utilities.** Sewer, water, scavenger service and other necessary utility service for the Common Elements and (if not separately metered or charged) for the Units.

B. **Insurance.** Insurance on the Property insuring the Common Elements and the Units against loss or damage by fire, lightning and those risks now or hereafter contained in the extended coverage, vandalism and malicious mischief endorsements, for the full insurable replacement value of the Common Elements and the Units, written in the name of, and the proceeds thereof shall be payable to, the members of the Board as trustees for each of the Owners in the percentages established in Exhibit "C" and to the Owner of the Commercial Property as set forth in the Declaration. Prior to obtaining any such policy of insurance, or any renewal thereof, the Board, at its option, may obtain an appraisal from a qualified appraiser for the purpose of determining the full insurable replacement value of the Common Elements and the Units for the amount of insurance to be effected pursuant hereto. The Board shall acquire all insurance necessary to meet the insurance requirements of the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") and the Act, and whichever has the greater requirements shall control for purposes of this paragraph. Any such policy of insurance (1) shall contain a standard mortgage clause endorsement in favor of each mortgagee of a Unit as its interest may appear, (2) shall provide that the insurance, as to the interest of the Board, shall not be invalidated by any act or neglect of any Owner, (3) shall provide that, notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the event the Owners elect to sell the Property or remove the Property from the provisions of the Act, (4) shall contain an endorsement to the effect that such policy shall not be terminated for non-payment of premium without at least ten (10) days' prior written notice to each mortgagee of a Unit, (5) shall contain a clause or endorsement whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, members of the Board, the Declarant and its beneficiaries, the Developer, the managing agent, if any, their respective employees and agents, the Owners and Occupants, (6) shall contain a "Replacement Cost Endorsement", and (7) shall not provide for a deductible amount greater than the lesser of Ten Thousand and No/100 Dollars (\$10,000.00) or one percent (1%) of the policy face amount. Notwithstanding the issuance of a standard mortgage clause endorsement, any losses under any

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such policy of insurance shall be payable, and all insurance proceeds recovered thereunder shall be applied and disbursed in accordance with the provisions of the Declaration, these By-Laws and the Act; provided, however, that if the Board fails to perform all of the conditions precedent required by any such policy of insurance, and fails to collect the amount of the loss within the time required by law, and any mortgagee of a Unit is required to avail itself of its rights under the standard mortgage clause endorsement to collect the proceeds of any such policy of insurance, any amounts so collected through the efforts of the mortgagee shall be applied as directed by the mortgagee. The Board may engage the services of any corporation qualified to accept and execute trusts in Illinois to act as Insurance Trustee (and as successor Insurance Trustee) and to receive and disburse the insurance proceeds resulting from any loss upon such terms as the Board shall determine consistent with the provisions of the Declaration and these By-Laws. In the event the lowest of three (3) bids from reputable contractors for making all repairs required by any loss shall exceed Sixty Thousand and No/100 Dollars (\$60,000.00), the Board, upon written demand of any mortgagee of a Unit, shall engage the services of an Insurance Trustee as aforesaid.

C. **Liability and Property Damage Insurance.** Comprehensive public liability and property damage insurance in a minimum coverage of One Million and No/100 Dollars (\$1,000,000.00) for bodily injury and property damage arising from a single occurrence, insuring the members of the Board, the Association, and managing agent, if any, and their respective agents and employees. The Declarant (including its beneficiaries) and the Commercial Property Owner shall be included as additional insureds. The Owners and Occupants shall be included as additional insureds but only with respect to that portion of the Property not reserved for their exclusive use. The insurance shall cover claims of one (1) or more insured parties against other insured parties. The insurance shall contain a waiver of any rights to subrogation by the insuring company against any of the above-named insured persons.

D. **Other Insurance.** Workmen's compensation insurance as may be necessary to comply with applicable laws and such other forms of insurance as the Board in its judgment shall elect to effect.

E. **Taxes.** Real property taxes, special assessments, and any other special taxes or charges of the County of Cook, State of Illinois or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon the real property of the Association. Upon authorization by a two-thirds (2/3) vote of the members of the Board or by the affirmative vote of the Owners having more than one-half (1/2) of the total votes, at a meeting duly called for such purpose, the Board, acting on behalf of all Owners, shall have the power to seek relief from or in connection with the assessment or levy of real property taxes, special assignments and any other special taxes or charges of the State of Illinois or of any other political subdivision thereof, or other lawful taxing or assessing body. In addition, the Board may act on behalf of all Owners in connection with any other matter where the respective interests of the Owners are deemed by the Board to be similar and non-adverse to each other.

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F. **Supplies and Services.** Landscaping, snow removal, cleaning, maintenance, decorating, repair and replacement of the Common Elements and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper. The Board shall have the exclusive right to designate, employ and remove personnel necessary for the maintenance, repair and replacement of the Common Elements.

G. **Maintenance.** Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations or assessments which the Board is required to secure or pay for pursuant to the terms of the Declaration and these By-Laws or by law or which in its opinion shall be necessary or proper for the maintenance and operation of the property as a first class condominium complex or for the enforcement of the Declaration, By-Laws, Rules and Regulations and the Act.

H. **Mechanic's Liens.** Discharge any mechanic's lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Board constitute a valid lien against the Property or against the Common Elements, rather than merely against the interest therein of a particular Owner. Where one (1) or more Owners (or the Occupants of his or their Units) are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it, and any costs (including attorneys' fees) incurred by the Board by reason of such lien shall be specially assessed to such Owners, regardless of whether such lien is later determined to be false, fraudulent or bona fide.

I. **Maintenance and Repair of Units.** Maintenance and repair of any Unit if, in the opinion of the Board, such maintenance or repair is necessary to protect the Common Elements or any other portion of the Property, and the Owner of such Unit has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of such maintenance or repair has been mailed or delivered by the Board to such Owner; provided that the entire cost of such maintenance or repair shall be deemed a part of such Owner's share of the Common Expenses.

J. **Right of Entry.** Upon reasonable notice, the Board or its agents may enter any Unit when necessary in connection with any construction, maintenance, pest and vermin control, testing or inspection for which the Board is responsible under the Act, the Declaration, these By-Laws or otherwise. The Board or its agents may likewise enter any balcony or patio for construction, maintenance, pest and vermin control, testing or inspection. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Board out of the maintenance fund as a common expense; provided that, if any Owner fails or refuses to permit such access to his Unit after reasonable notice and the Board or its agents are required to make a forced entry into said Unit, the Owner shall be solely responsible for any damage caused by such forced entry. In the event of an emergency, no notice is required from the Board to obtain entry.

K. **Rules and Regulations.** To adopt such reasonable rules and regulations and amendments thereto as it may deem advisable for the maintenance, operation, conservation and

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beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and Occupants of the Property, after a meeting of the Owners called for the specific purpose of discussing the proposed Rules and Regulations, notice of which contains the full text of the proposed Rules and Regulations and which conforms to the procedural requirements for the calling of a regular or special meeting of the Association under the Act. No quorum is required at this meeting of Owners. No rule or regulation shall impair any rights guaranteed by the First Amendment to the Constitution of the United States or Section 4 of Article I of the Illinois Constitution. Written notice of the adoption of such Rules and Regulations shall be given to all Owners and Occupants. The Developer or Declarant shall have the right to adopt and promulgate the initial Rules and Regulations for the Association which may be amended by any subsequent Board as provided herein.

L. **Management.** To retain a professional manager for the Property, if and to the extent deemed advisable by the Board.

M. **Leases, Licenses and Concessions.** To lease or to grant licenses or concessions with respect to any part of the Common Elements, subject to the discretion of the Board and these By-Laws.

O. **Assignment of Income.** To assign the Association's right to future income, including the right to receive common expense assessments.

P. **Cable Television.** To record that granting of an easement for the installation of cable television cable where authorized by the Board pursuant to the Declaration and these By-Laws.

Q. **Violation.** To impose charges for late payments of an Owner's proportionate share of the Common Expenses, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, levy reasonable fines for violation of the Declaration, By-Laws, and Rules and Regulations of the Association.

R. **Business.** The Board shall not conduct any business for profit on behalf of the Owners unless provided for or required by the Act or the Declaration or these By-Laws or approved by a majority of the Owners.

S. **Powers and Duties.** Nothing hereinabove contained shall be construed to limit the powers and duties of the Board as set forth in the Act, and the powers and duties set forth in the Declaration and these By-Laws shall be construed as a clarification and, where permissible, an expansion of such statutory powers and duties.

T. **Fiduciary Duty.** In the performance of their duties, the officers and members of the Board are required to exercise, whether appointed by either the Declarant or the Developer, or elected by the Owners, the care required of a fiduciary of the Owners.

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U. **Handicapped Unit Owner.** To reasonably accommodate the needs of a handicapped Unit Owner as required by the Illinois Human Rights Act, as may from time to time be amended, in the exercise of its powers with respect to the use of Common Elements or approval of modifications in an individual Unit. (775 I. L.C.S. 5/1-101 et. seq.)

V. **Reserves.** The Board, in its sole discretion, shall have the right, upon notice to the Unit Owners, to provide for reserves for maintenance of the Property.

## SECTION EIGHT

### LIABILITY OF THE BOARD OF MANAGERS

A. **Liability to Owners.** Neither the Declarant (or its beneficiaries), the Developer, the members of the Board nor the officers of the Association shall be liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such de facto or de jure Board members and officers, except for any acts or omissions found by a court of law to constitute willful misconduct in the performance of duty.

B. **Liability to Third Parties.** The Owners (and, to the extent permitted by law, the Association) shall indemnify and hold harmless the Declarant (and its beneficiaries), each of the members of the Board and each of the officers against all contractual and other liabilities to others arising out of contracts made by or other acts of the Declarant (and its beneficiaries), the Board and officers on behalf of the Owners or the Association, or arising out of their de facto or de jure status as Board members or officers unless any such contract or act shall have been made fraudulently or with gross negligence or contrary to the provisions of the Declaration. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, attorney's fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other in which the Declarant (and its beneficiaries), any member of the Board or officers may be involved by virtue of such person being or having been or having served as such member or officers; provided, however, that such indemnity by the Association shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for willful misconduct in the performance of his duties as such member or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by the Board (who may be counsel regularly retained by the Association) there are no reasonable grounds for such person or officer being adjudged liable for willful misconduct in the performance of his duties as such member or officer. The Board shall have authority to purchase and maintain insurance on behalf of the officers and members of the Board against any expenses (including attorney's fees), liability or settlement based on asserted liability, incurred by them by reason of being or having served in such capacity, whether or not the Association would have the power to indemnify them against such liability or settlement under the provisions of this Section Eight. The costs of any such insurance shall be a Common Expense. It is also intended that the liability of any Owner arising out of any contract made by the Board, the officers, Declarant (or the

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beneficiaries of Declarant), the Developer, or out of the aforesaid Owners' indemnity, shall be limited to such proportion of the total liability thereunder as such Owner's percentage of ownership in the Common Elements bears to the total percentage of ownership in the Common Elements of all Owners. Every contract made by the Board, the officers, Declarant (or the beneficiaries of Declarant), the Developer or the managing agent on behalf of the Owners shall provide that they are acting only as agents for the Owners and shall have no personal liability thereunder (except as Owners) and that each Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as such Owner's percentage of ownership in the Common Elements bears to the total percentage of ownership in the Common Elements of all Owners. If the Board or Association elects to or is required to indemnify or hold harmless a Board member or officer pursuant to this section, the Board reserves the right to provide defense of such member and to settle or compromise any claim against such member.

## SECTION NINE

### SIGNATURES

All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the Secretary or Treasurer and countersigned by the Secretary or Treasurer.

## SECTION TEN

### PROFESSIONAL MANAGEMENT

Any agreement for professional management of the Property or any other contract providing for services of the Developer, may not exceed a term of two (2) years from the date of the filing of the Declaration.

## SECTION ELEVEN

### RESALE

A. **Documents.** In the event of any resale of a Unit by an Owner other than the Declarant, such Owner shall obtain from the Board and shall make available for inspection to the prospective purchaser, concurrently with execution of any contract for sale, upon demand the following:

1. A copy of the Declaration, By-Laws, other condominium instruments and any Rules and Regulations.

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2. A statement of the monthly common expense assessment for the selling Owner's Unit.

3. A statement of any liens, including a statement of the account of the Unit setting forth the amounts of unpaid assessments and other charges currently due and owing from the selling Unit Owner.

4. The information on the total actual expenditures, by category, made for all repairs, maintenance, operation or upkeep of the common areas of the building in which the Unit is located within the last three (3) years as found in the regular books of the Association. If the property has not been occupied as a condominium for a period of three (3) years, the information, if available, shall be provided for such lesser time as the Property has been so occupied.

5. A statement of any other fees payable by the Unit Owners.

6. A statement of any future capital expenditures approved by the Association or the Board.

7. A statement of the amount of the reserves for capital expenditures and of any portions of those reserves designated by the Association for specified projects.

8. The most recent regularly prepared balance sheet and income and expense statement, if any, of the Association. The current operating budget of the Association.

10. A statement of any judgments against the Association, and the status of any pending suits to which the Association is a party, of which it has knowledge.

11. A statement describing any insurance coverage provided for the benefit of Unit Owners.

12. A statement of whether the Board has received written notice from any Federal, State or local government of any violations of any applicable codes with respect to the Unit or of the Common Elements.

B. The Association, within ten (10) days after a written request by an Owner, shall make a good faith effort to furnish accurate information necessary to enable the Owner to comply with this Section. An Owner delivering a statement of such information shall not be liable to the purchaser for any erroneous information from the Association, provided that the errors are unknown to the Owner.

C. An Owner is not liable to a purchaser for the failure or delay of the Association to provide such information in a timely manner. Inability to obtain any of the information shall be



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set forth in the sworn statement of the Owner. The purchaser shall have five (5) days from receipt of such affidavit to void said contract for said failure to provide data.

D. Immediately upon execution by both parties of a sales contract by both Owner and purchaser, the Owner shall provide to the Board the name and address of the purchaser and the Board shall from that time on send duplicates of all notices sent to Owner to the purchaser.

## SECTION TWELVE

### AMENDMENT

The provisions of these By-Laws may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the President and Secretary of the Board, and certifying that the Owners having at least a majority of the total votes have approved such amendment at a meeting of the Association duly called for such purpose, and containing an affidavit by an officer of the Board certifying that a copy of the change, modification or rescission has been mailed by certified mail to all First Mortgagees, no less than ten (10) days prior to the date of such affidavit. Notwithstanding the foregoing, an amendment to these By-Laws which falls within the parameters of Article XI of the Declaration shall not be effective without the prior written approval of two-thirds (2/3) of all First Mortgagees. Until such date as Declarant has conveyed title to all the Units, no provision of these By-Laws may be changed, modified or rescinded and no provision may be added without the prior written consent of Declarant. Any change, modification or rescission shall be effective upon recording such instrument in the office of the Recorder of Deeds, Cook County, Illinois.