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This Document Prepared by and  
After recording return to:

Cynthia Jared  
Sachnoff & Weaver, Ltd.  
30 S. Wacker Drive  
Chicago, IL 60606



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Date: 03/03/2005 11:29 AM Pg: 1 of 10

## COLLATERAL ASSIGNMENT OF DEVELOPER'S RIGHTS AND AGREEMENT WITH RESPECT TO CONDOMINIUM DOCUMENTS

LOAN TO 2625 NORTH CLARK STREET, LLC

This Collateral Assignment of Developer's Rights and Agreement with Respect to Condominium Documents (this "**Assignment**") is dated for reference purposes only as of February 14, 2005, and is made by 2625 North Clark Street, LLC, an Illinois limited liability company ("**Borrower**"), in favor of Corus Bank, N.A., whose address is 3959 N. Lincoln Ave., Chicago, IL 60613, Attn: John R. Markowicz, Senior Vice President ("**Lender**"), as Grantee.

### RECITALS:

A. Lender has agreed to make a loan and other financial accommodations (the "**Loan**") to Borrower pursuant to the terms of that certain Construction Loan Agreement dated for reference purposes only as of February 14, 2005 (the "**Loan Agreement**").

B. Borrower is the owner of the property legally described on Exhibit A, and all improvements thereon (the "**Property**") and Borrower desires to convert the Property to a condominium form of ownership.

C. Lender has required and Borrower has agreed to grant to Lender a security interest in all of its rights as declarant under the condominium documents and as owner of condominium units.

NOW, THEREFORE, in consideration of the foregoing Recitals, each of which is made a part hereof, the parties agree as follows:

1. Definitions. As used herein, the following terms shall have the following definitions:

(a) All capitalized terms used herein that are defined in the Loan Agreement and that are not otherwise defined herein shall have the meaning ascribed to such terms in the Loan Agreement, including but not limited to: "**Business Day**", "**Commercial Space**", "**Condominium Act**", "**Condominium Documents**", "**Condominium Plat**", "**Condominium Unit**", "**Contract Buyer**", "**Encumbrance**", "**Event of Default**", "**Governmental Authority**", "**Laws**", "**Loan Documents**", "**Modification**", "**Mortgage**", "**Offering Materials**", "**Person**", "**Secured Obligations**", "**UCC**", and "**Valid Sales Contracts**". Such definitions are incorporated herein by reference as if fully set forth herein.

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(b) **"Agreements"**: collectively, the Declaration, By-Laws, Offering Materials, Valid Sales Contracts and all agreements and documents relating thereto, and all Modifications thereto and thereof.

(c) **"Board"**: the Board of Directors, as defined in the By-Laws.

(d) **"By-Laws"**: the By-Laws of the Condominium Association.

(e) **"Condominium Association"**: 2625 North Clark Street Private Residences Condominium Association, an association of the Condominium Unit owners.

(f) **"Declaration"**: that certain Declaration of Condominium for 2625 North Clark Street Private Residences, a Condominium.

(g) **"Owned Unit"**: any Condominium Unit or Commercial Space owned by Borrower.

2. Grant of Security Interest. To secure timely payment and performance in full of all Secured Obligations, Borrower hereby grants, sells, hypothecates, assigns, transfers and sets over unto Lender all of its right, title and interest in, to and under the following described assets, whether now existing or hereafter acquired (the **"Collateral"**):

(a) all right, title and interest of Borrower, including any rights as declarant, in and to the Declaration, the Condominium Plat, the By-Laws, the Articles of Incorporation of the Condominium Association, any and all Offering Materials and all other documents, agreements and instruments related to the creation, conversion and maintenance of the Property as a condominium under the Condominium Act and all other applicable Laws;

(b) all right, title and interest in and to all consents, approvals, licenses and permits issued by any Governmental Authority;

(c) all sales contracts and all other Contracts (as defined in the UCC) relating to the Property;

(d) all rights of Borrower as an owner of any Owned Unit, including without limitation the right to vote and to exercise all other rights of an owner of a Condominium Unit or a Commercial Space; and

(e) all proceeds of the foregoing, and all whether now owned or hereafter acquired, now existing or hereafter arising.

3. Representations by Borrower. Borrower hereby represents and warrants to Lender that the Agreements and the Offering Materials collectively contain all disclosures regarding Borrower, the Property, the Condominium Association, the Commercial Spaces and the Condominium Units required by applicable Laws. Borrower hereby covenants that within ten (10) days after the recording of this agreement (or sooner if required by Law), Borrower will deliver to each Person that is a tenant of the Property the notice required pursuant to 765 ILCS 605/30 and shall grant to each tenant all rights required pursuant thereto.

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4. Covenants of Borrower. Borrower hereby covenants and agrees as follows:

(a) to comply with any and all applicable Laws (including, without limitation the Condominium Act) in connection with the conversion of the Property, the sale and conveyance of the Condominium Units and the submission of the Property to a condominium form of ownership;

(b) to timely deliver the Offering Materials in accordance with the requirements of all applicable Laws so that the Condominium Units may be offered for sale to the public and Borrower may enter into binding contracts to sell Condominium Units which satisfy the criteria for Valid Sales Contracts set forth in the Loan Agreement;

(c) to pay all assessments, common charges and special assessments imposed pursuant to the Condominium Documents when the same become due and payable with respect to the Owned Units. Within ten (10) Business Days after Lender's request therefor, Borrower will deliver to Lender evidence satisfactory to Lender that the assessments, common charges and special assessments have been paid and are not then delinquent with respect to the Owned Units;

(d) within ten (10) Business Days after request by Lender, to obtain from the Board and/or the Condominium Association and deliver to Lender an estoppel certificate which shall include, without limitation: (i) the amount of the unpaid assessments, common charges, and special assessments, if any, accrued against the Owned Units, (ii) that the Condominium Documents have not been modified or amended, (iii) that all payments due and payable by Borrower or any of its affiliates under the Condominium Documents have been paid in full, and (iv) whether Borrower, the Condominium Association and/or the Board is in default under the Condominium Documents;

(e) to observe and perform each and every term to be observed or performed by Borrower pursuant to the Condominium Documents, including without limitation, obligations of Borrower as the declarant and as a Condominium Unit owner;

(f) not less than ten (10) Business Days prior to the date established for any vote by the Board or the Condominium Association, to notify Lender of: (i) any proposed amendment, supplement or termination or relaxation of enforcement of the Declaration or the other Condominium Documents, (ii) any proposed action to be taken relating to any condemnation or casualty affecting the Property (or any restoration thereof), (iii) any proposed action to terminate professional management and assume self-management of the Property, (iv) any proposed action to subject to the Property, to any material increase in operating costs or which would cause a material increase in any assessment for which an owner of a Condominium Unit would be liable, or (v) any other proposed material action of the Condominium Association;

(g) to immediately notify Lender in writing of (1) any claims made by the Board, the Association or any Condominium Unit owner against Borrower or (2) any exercise of any development right of Borrower reserved in the Declaration;

(h) within five (5) Business Days after receipt thereof, to furnish Lender with copies of all minutes or resolutions of the Board, proposed or approved, all notices and any

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and all other written material sent or furnished to it (either as declarant or as an owner of an Owned Unit) by the Board;

(i) notwithstanding any right of Condominium Unit owners set forth in the Condominium Documents, not to (and to the extent within Borrower's legal rights will not permit), without the prior written consent of Lender, which consent shall not be unreasonably withheld: (i) subdivide or partition any Condominium Unit, or any common elements that are appurtenant to any Condominium Unit, (ii) assign or delegate any rights appertaining to any Condominium Unit, (iii) amend or modify any Condominium Document, (iv) exercise any rights of declarant or development rights under the Condominium Documents with respect to construction or installation of any addition to any existing building or of any new building or improvement;

(j) to cause Lender to receive the benefits of any protections designed for each "Mortgagee" (as defined in the Declaration);

(k) to the extent Borrower is legally entitled to do so, to cause the Condominium Association to: (i) maintain at all times a reasonable reserve, to be funded by monthly assessments payable by all unit owners, for repairs and replacements of common areas, and shall not permit the Condominium Association to assign any future rights to assessments or income or to grant, convey or pledge any rights in the common areas; (ii) maintain insurance to be maintained on the Property in accordance with the prudent commercial practice and the requirements of applicable Law; (iii) maintain the Property (other than Condominium Units which have been conveyed to Contract Buyers) in good condition and repair; (iv) promptly comply with all applicable Laws; (v) promptly repair, replace or rebuild any part of the Property (other than Condominium Units which have been conveyed to Contract Buyers) which may be damaged or destroyed by any casualty or which may be affected by any condemnation proceeding; or (vi) complete and pay for, within a reasonable time, any structure at any time in the process of construction or repair on the Property, all to the extent that the Board or the Condominium Association is authorized to do so; and

(l) not give its consent or vote or take any other action permitted to be taken by Borrower, as declarant, under the Declaration or waive any rights, without in each case the prior written consent of Lender, which consent shall not be unreasonably withheld;

## 5. Power of Attorney; Proxy.

(a) Until the Secured Obligations are paid in full, Borrower hereby irrevocably appoints Lender as Borrower's true and lawful attorney-in-fact, with full power of substitution and with power for it and in its name, place and stead, to: (i) exercise, perform and/or enforce any and all development and declarant rights of Borrower pursuant to the terms of the Condominium Act and/or the Agreements, including without limitation the right to file any claim or take any other action or proceeding and make any settlement of any claims, either in its own name or in the name of Borrower or otherwise, which Lender may deem necessary or desirable in order to exercise, perform, enforce and collect on the Condominium Documents and the rights granted to Borrower thereunder; (ii) to exercise any rights (including the right to vote) of an owner of an Owned Unit, as if Lender was in fact the owner of the Owned Unit; (iii) to enter into contracts to sell Condominium Units,

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under terms and conditions Lender deems necessary or desirable; and (iv) to amend, modify or consummate any transaction contemplated in any contract to sell an Owned Unit entered into by Borrower or any contract entered into by Lender pursuant to this Assignment, including but not limited to executing and delivering, in Borrower's name, any deed, bill of sale, warranty, settlement statement, closing document or other document, instrument or agreement Lender deems necessary or desirable to consummate the sale of Condominium Units. Until the Secured Obligations are paid in full, Borrower hereby irrevocably nominates and appoints Lender as Borrower's proxy to vote, and as Borrower's agent, to act with respect to all rights under the Condominium Documents and the other Agreements. ANY OTHER PARTY TO THE CONDOMINIUM DOCUMENTS OR BENEFICIARY THEREUNDER IS HEREBY EXPRESSLY AUTHORIZED AND DIRECTED TO COMPLY WITH ANY DIRECTIONS PROVIDED TO THEM BY LENDER OR SUCH NOMINEE AS LENDER MAY DESIGNATE AND SUCH THIRD PARTIES ARE EXPRESSLY RELIEVED OF ANY AND ALL DUTY, LIABILITY OR OBLIGATION TO BORROWER IN RESPECT OF ALL ACTIONS SO TAKEN.

(b) Lender will have authority to employ other persons as necessary to enable Lender to properly exercise the powers granted in this Assignment. Lender shall have the right by written instrument to delegate any or all of the foregoing powers involving discretionary decision-making to any Person whom Lender may select, and such delegation may not be amended or revoked by Borrower until the Secured Obligations have been indefeasibly paid in full. This power of attorney has been granted to Lender in accordance with the terms of the Loan Agreement. THIS POWER OF ATTORNEY IS COUPLED WITH AN INTEREST AND MAY NOT BE AMENDED OR REVOKED ABSENT LENDER'S WRITTEN CONSENT. The authority granted in this power of attorney will become effective at the time this Assignment is signed and will continue until Borrower has indefeasibly paid, in full, all Secured Obligations. NOTHING CONTAINED IN THIS POWER OF ATTORNEY SHALL BE DEEMED TO CREATE A FIDUCIARY RELATIONSHIP BETWEEN LENDER AND BORROWER. LENDER DOES NOT ASSUME, AND SHALL NOT AT ANY TIME BE DEEMED TO HAVE ASSUMED, ANY RELATIONSHIP OF AGENCY OR TRUST WITH OR FOR, OR ANY OTHER DUTY OR RESPONSIBILITY TO BORROWER, OR ANY SUCCESSOR OR ASSIGN OF BORROWER, AND NO IMPLIED DUTIES OR RESPONSIBILITIES ON THE PART OF LENDER SHALL BE READ INTO THIS POWER OF ATTORNEY. LENDER SHALL HAVE NO LIABILITY TO BORROWER AS A RESULT OF ANY ACTION OR INACTION OF LENDER UNDER THIS POWER OF ATTORNEY, THE LOAN AGREEMENT OR ANY OTHER LOAN DOCUMENT, ABSENT A FINAL DETERMINATION BY A COURT OF COMPETENT JURISDICTION OF GROSS NEGLIGENCE OR WILFUL MISCONDUCT. NOTHING CONTAINED HEREIN SHALL BE DEEMED TO REQUIRE LENDER TO TAKE ANY ACTION ENUMERATED HEREIN OR ANY DUTY TO ANY CONTRACT BUYER, THE ASSOCIATION OR ANY OTHER PERSON. LENDER IS HEREBY AUTHORIZED TO TAKE ANY AND ALL ACTIONS (OR REFRAIN FROM TAKING ANY OF SAID ACTIONS) ENUMERATED IN THIS POWER OF ATTORNEY, THE LOAN AGREEMENT, OR ANY OTHER LOAN DOCUMENT, WHICH LENDER, IN ITS SOLE AND ABSOLUTE DISCRETION, DEEMS APPROPRIATE.

(c) Lender is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment, including the right to enter upon the Property, or any part thereof, and take possession thereof forthwith to the extent necessary to exercise and enforce the rights of Borrower under any of the Condominium Documents.

6. Forbearance by Lender; License of Borrower. **NOTWITHSTANDING ANY PROVISION HEREIN TO THE CONTRARY, UNLESS AN EVENT OF DEFAULT HAS OCCURRED AND DURING THE**

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CONTINUATION THEREOF, LENDER HEREBY AGREES THAT LENDER SHALL FORBEAR FROM THE EXERCISE OF THE RIGHTS GRANTED PURSUANT TO SECTION 5 HEREOF AND LENDER HEREBY GRANTS TO BORROWER THE LICENSE TO EXERCISE AND TO ENFORCE ALL PROVISIONS CONTAINED IN THE AGREEMENTS, SUBJECT TO THE TERMS OF THIS ASSIGNMENT AND THE OTHER LOAN DOCUMENTS. The license herein granted to Borrower shall terminate immediately and automatically, without further action or documentation, upon the occurrence of an Event of Default and during the continuation thereof. Upon written notice thereof given by Lender to any third party under any of the Agreements, all sums thereafter payable and all agreements and covenants thereafter to be performed by such third party shall be paid and performed by such third party directly to Lender in the same manner as if the above license had not been granted, without prosecution of any legal or equitable remedies under the Loan Agreement, Mortgage or any other Loan Document. It is the intention of Lender and Borrower that the assignment effected by this Assignment shall be a direct and currently effective assignment and shall not constitute merely the granting of a lien, security interest or pledge for the purpose of securing the Secured Obligations.

7. Insurance. As long as the Condominium Association maintains a "master" or "blanket" policy (as used in this Section 7 only, the "**Condominium Association Policy**") on the Property and the Common Elements (as defined in the Condominium Documents) which provides insurance coverage in the amounts, for the periods, by companies and against the hazards described in Exhibit C of the Loan Agreement, including fire and hazards included within the term "extended coverage", and is otherwise in form and substance satisfactory to Lender and in compliance with the Condominium Act, then Borrower's obligation under the Loan Agreement to maintain comprehensive all risk insurance on the Property shall be deemed to be satisfied to the extent that the required coverage is provided by the Condominium Association Policy. In the event of conflict between the terms of the Loan Agreement concerning the use of Net Restoration Proceeds and the terms of the Condominium Documents regarding the same, the terms and provisions of this Assignment shall control. With respect to any Owned Units, if pursuant to the terms of the Condominium Documents any Net Restoration Proceeds are paid to Borrower, then the terms of the Loan Agreement will control the disposition of such Net Restoration Proceeds. In the event of damage, destruction, condemnation or taking of all or any part of the Common Elements or Condominium Units which are not Owned Units which requires a vote of the unit owners to repair and restore the same, Borrower hereby assigns to Lender and designates Lender its proxy and right to vote in such matters and hereby irrevocably appoints the Lender its attorney-in-fact coupled with an interest to cast Borrower's vote in such matters as the Lender deems appropriate.

8. Events of Default. The following shall be Events of Default under this Assignment:

- (a) any Event of Default occurs under the Loan Agreement or any other Loan Document;
- (b) any default occurs under Section 4(e), (f), (k), or (l);
- (c) if, after the recording of the Declaration, (1) the Condominium is terminated, or (2) the Property is withdrawn from the provisions of the Condominium Act, (3) the unit owners do not resolve to repair and restore the Property after damage to all or a substantial part of the Property or after condemnation or taking of any Owned Unit or the common elements;

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(d) Borrower defaults under Section 4(c), and such default shall continue for five (5) days after the due date thereof; or

(e) there is a transfer, release, creation of liens, partition, subdivision, condemnation or taking of all or part of the Common Elements.

9. Remedies; Lender's Cure Rights. Upon the occurrence of any Event of Default, Lender, in addition to availing itself of any remedies conferred upon it by Law and by the terms of any Loan Document, may pursue any one or more of the remedies set forth in this Assignment, first, concurrently or successively with each other and with any other available remedies, it being the intent hereof that none of such remedies shall be to the exclusion of any others. In the event Borrower shall fail to cure any default after notice thereof from the Condominium Association, the Board or Lender, Lender may, at its option, but without any obligation to do so, cure such default. Lender may pay for the account and on behalf of Borrower any amount which Borrower is obligated to pay, including any Assessment or any other assessment or charge of any kind or nature, pursuant to the Condominium Documents, upon default by Borrower, in paying the same, and Lender may perform any act, employ any person or entity, and cast any vote on behalf of Borrower which Borrower may or is obligated to do pursuant to the Condominium Documents upon default by Borrower in doing the same. All sums paid by Lender for the expense of any such action or proceeding shall be deemed to be Costs. Nothing contained herein shall obligate Lender to pay any sums or perform any acts on behalf of Borrower. Furthermore, if Lender pays such amounts or performs such acts on behalf of Borrower, the same shall not constitute a waiver or forgiveness by Lender of Borrower's default under this Assignment or any estoppel against Lender from declaring Borrower in default hereunder or under any other Loan Document.

10. No Liability of Lender. Borrower shall at all times remain liable to each other party under each of the Condominium Documents to perform all of its obligations thereunder to the same extent as if this Assignment had not been entered into. Lender shall have no obligation or liability under the Condominium Documents by reason of, or arising out of, this Assignment or be obligated to perform any of the obligations of Borrower thereunder or to make any payment or to make any inquiry of the sufficiency of any payment received by the Lender or to present or file any claim or to take any other action to collect or enforce any claim for any payment assigned hereunder. Any third party to any of the Agreements, upon notice to it of this Assignment, is hereby authorized to recognize the Lender's claims to rights hereunder without investigating any reason for any action taken by the Lender or the validity or amount of the obligations or existence of any default or the application to be made by the Lender of any amounts to be paid to it.

11. Costs. Any liability identified as a Cost hereunder shall bear interest and be payable by Borrower to Lender in accordance with the provisions of the Loan Agreement.

12. Incorporation. The provisions of Articles 1, 10 and 12 of the Loan Agreement are incorporated by reference and made applicable hereto

13. Credit Agreement Act. Borrower expressly agrees that for purposes of this Assignment: (i) this Assignment and shall be a "credit agreement" under the Illinois Credit Agreements Act, 815 ILCS 160/1 et seq. (the "Act"); (ii) the Act applies to this transaction including, but not limited to, the execution of this Assignment; and (iii) any action on or in any way related to this Assignment shall be governed by the Act.

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14. Governing Law. This Assignment and all other Loan Documents shall be governed by and construed in accordance with the internal laws of the State of Illinois applicable to contracts made and to be performed in such state (without regard to the principle of conflicts of law applicable under Illinois law) and applicable laws of the United States of America.

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IN WITNESS WHEREOF, the undersigned has executed this Collateral Assignment Of Developer's Rights And Agreement With Respect To Condominium Documents dated for reference purposes only as of February 14, 2005.

**BORROWER:**

2625 North Clark Street, LLC,  
an Illinois limited liability company

By: NVG Residential, Inc.,  
an Illinois corporation and its sole manager

By: Nicholas V. Gouletas  
Nicholas V. Gouletas

Its: Chairman

**THE ADDRESS OF GRANTEE IS**

Corus Bank, N.A.  
3959 North Lincoln Ave.  
Chicago, IL 60613  
Cook County  
Attn: John R. Markowicz,  
Senior Vice President

**THE ADDRESS OF BORROWER IS:**

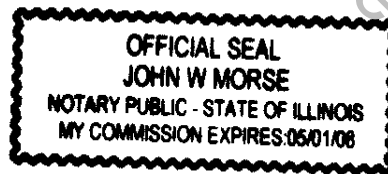
c/o NVG Residential, Inc.  
111 West Maple Street, Suite 3302  
Chicago, IL 60611

STATE OF ILLINOIS     )  
  ) ss.  
COUNTY OF COOK     )

I, John W. Morse, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that **Nicholas V. Gouletas**, the Chairman of NVG Residential, Inc., the managing member of 2625 N. Clark Street, LLC, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary acts of 2625 North Clark Street, LLC for the uses and purposes therein set forth.

Given under my hand and notarial seal this 25<sup>th</sup> day of February, 2005.

John W. Morse  
Notary Public  
my commission expires: \_\_\_\_\_



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## Exhibit A

### Legal Description

LOTS 9, 10 AND THE WEST 30 FEET OF THE EAST 100 FEET OF LOT 11 IN THE SUBDIVISION OF BLOCKS 1 AND 2 OF OUTLOT "A", IN WRIGHTWOOD, BEING A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 2625 N. Clark Street, Chicago, IL

Permanent Index Numbers: 14-28-307-004-0000  
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