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## DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR THE DREXEL BLVD./42<sup>ND</sup> STREET COMMUNITY ASSOCIATION

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## DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR THE DREXEL BLVD./42<sup>ND</sup> STREET COMMUNITY ASSOCIATION

THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS (the "Declaration") is made and entered into this 5<sup>TH</sup> day of MAY, 2005 by JAZZ ON THE BOULEVARD, LLC, a Delaware limited liability company (the "Declarant").

### RECITALS

Capitalized terms not otherwise defined in these Recitals are defined in Article One herein.

The Declarant is the legal title holder of the land situated at the southwest corner of East 42<sup>nd</sup> Street and South Drexel Boulevard, in the City of Chicago, County of Cook, State of Illinois, and which is legally described in Exhibit A (hereinafter referred to as the "Real Estate").

The Declarant will construct on the Condominium Parcel sixteen (16) Condominium Units, and their respective common elements, as more particularly described in the Condominium Declaration. The Declarant has constructed on the Townhome Parcel seven (7) Townhome Units, and on the Roadway Parcel, the Roadway Parcel Improvements, all as depicted on the site plan (the "Site Plan") attached hereto as Exhibit E. The Declarant hereby submits the Townhome Units to the provisions of this Declaration. The Declarant, pursuant to an Add-on Amendment, will also submit completed Condominium Units and interests in the Condominium Parcel underlying the Condominium Units to the provisions of this Declaration.

The Development will be a mixed income residential development containing a total of twenty-three (23) units. There will be seven (7) Market Rate For-Sale Townhome Units. There will be sixteen (16) Condominium Units, which will be comprised of Market Rate For-Sale Units, Affordable For-Sale Units and Public Housing Rental Units.

The Declarant has formed Drexel Blvd./42<sup>nd</sup> Street Community Association, an Illinois not-for-profit corporation (the "Community Association") for the purposes of (a) holding title to the fee simple estate in the Roadway Parcel from and after the Transfer Date, (b) maintaining the Roadway Parcel Improvements from and after the Transfer Date, (c) regulating the use of the Roadway Parcel from and after the Transfer Date, (d) providing certain services to and for the benefit of the Development, and (e) assessing Unit Owners for, and collecting from such Unit Owners, their allocable share of Common Expenses in accordance with such Unit Owner's Percentage Interests.

On the Transfer Date, the Declarant will declare the fee simple estate in the Roadway Parcel to be subject to this Declaration, to be restricted for purposes of a private roadway for vehicular and pedestrian ingress and egress to and from all public and private ways which adjoin the Residential Property, to be subject to easements for storm water detention and for the installation, maintenance and repair of facilities to provide public and private utility service to the Development and to be subject to the easements and rights reserved by the Declarant pursuant to Section 2.05 until the Transfer Date.

The Declarant shall be the initial holder of the fee simple estate in the Roadway Parcel and shall construct the Roadway Parcel Improvements on the Roadway Parcel and, upon

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completion of the Roadway Parcel Improvements, shall convey its fee simple estate in the Roadway Parcel, and shall convey the Roadway Parcel Improvements, to the Community Association. The Community Association shall thereafter maintain, repair and replace the Roadway Parcel Improvements.

The Declarant reserves in this Declaration the right to amend this Declaration to subject portions of the Condominium Parcel to this Declaration as Condominium Units are constructed on the Declarant's estate in the Condominium Parcel and to adjust the Percentage Interests of all Unit Owners accordingly by the execution by Declarant and recording of an Add-on Amendment.

The Declarant intends that the provisions of the Act relating to master associations govern the Community Association as necessary for it to be deemed a "master association" under the Act.

The Percentage Interests of Unit Owners shall be established in accordance with Section 3.05. The Unit Owners shall contribute to the Common Expenses in accordance with their respective Percentage Interests, subject to adjustment in accordance with the provisions of Article Eight hereof.

The Declarant deems it advisable and necessary for the protection of the current and future owners of the Residential Property to execute, deliver and record this Declaration containing covenants, restrictions and easements running with the land binding upon all grantees, subsequent grantees and their heirs, successors, and/or assigns in title or interest and after the Transfer Date, subjects its fee simple interest in the Roadway Parcel to the easements, covenants and restrictions herein contained.

NOW, THEREFORE, (a) the Declarant, for the purposes set forth above, hereby declares, subject to the provisions of this Declaration, the fee simple estate in the Roadway Parcel to be permanently restricted to use for the purposes of a private roadway for vehicular and pedestrian ingress and egress to and from all public and private ways which adjoin the Residential Property for drainage and detention and for the installation and maintenance of public and private utilities for the benefit of and serving the Residential Property, subject to the covenants, conditions and restrictions contained herein; and (b) the Declarant, for the purposes set forth above, and after the Transfer Date, hereby declares its estate in the Residential Property to be subject to the covenants, conditions and restrictions contained herein.

## ARTICLE ONE Definitions

For purposes of brevity and clarity, certain words and terms used in this Declaration of Easements, Covenants and Restrictions are defined as follows:

- 1.01 **Act**. The Condominium Property Act of the State of Illinois, as amended from time to time.
- 1.02 **Add-On Amendment**. An amendment to, or restatement of, this Declaration, filed in the Office of the Recorder of Deeds of Cook County, Illinois, subject to the provisions contained in Article Eight herein and, to the extent applicable, in the Act.

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- 1.03 **Affordable For-Sale Units.** The for-sale Units in the Development to be sold to Qualified Households for an affordable price in accordance with the TIF Redevelopment Agreement.
- 1.04 **Amendment.** An amendment to, or restatement of, this Declaration, filed in the Office of the Recorder of Deeds of Cook County, Illinois, subject to the provisions contained herein and to Section 18.5 of the Act.
- 1.05 **AMI.** Chicago-area median income, adjusted for family size, as such adjusted income and Chicago-area median income are determined from time to time by HUD for purposes of Section 8 of the United States Housing Act of 1937.
- 1.06 **Annual Budget.** The annual budget of the Community Association which sets forth the Estimated Annual Common Expenses.
- 1.07 **Board.** The duly elected Board of Directors of the Community Association, as constituted from the provisions of the By-Laws and the General Not-For-Profit Corporation Act of the State of Illinois.
- 1.08 **By-Laws.** The By-Laws of the Community Association in substantially the form of Exhibit I attached hereto and by this reference made a part hereof.
- 1.09 **CHA.** The Chicago Housing Authority, an Illinois municipal corporation.
- 1.10 **City.** The City of Chicago, an Illinois municipal corporation.
- 1.11 **Common Expenses.** The proposed or actual expenses of (a) maintaining, repairing and replacing the Roadway Parcel and the Roadway Parcel Improvements from and after the Transfer Date, including, without limitation, real estate taxes, insurance costs and reserves, if any, (b) of providing the Common Services to the Common Service Improvements, and (c) of operating the Community Association as provided for herein, lawfully assessed by the Board.
- 1.12 **Commonly Maintained Areas.** (i) the Roadway Parcel, (ii) the Perimeter Parkway, and (iii) subject to the approval of the Board, the yards of the Condominium Units and Townhome Units.
- 1.13 **Common Service Improvements.** (a) the landscaped yards, driveways, walkways and parking areas constructed and located on the Commonly Maintained Areas, (b) the Roadway Parcel Improvements and (c) the Perimeter Parkway Improvements.
- 1.14 **Common Services.** Certain landscape and snow removal services to be performed by the Community Association with respect to the Common Service Improvements.
- 1.15 **Community Association.** Drexel Blvd./42<sup>nd</sup> Street Community Association, a not-for-profit corporation, organized and operating pursuant to the laws of the State of Illinois.
- 1.16 **Condominium Association.** 4162-4178 South Drexel Blvd. Condominium, a not-for-profit corporation, to be organized and operating pursuant to the laws of the State of Illinois.

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- 1.17 **Condominium Declaration.** That certain Declaration of Condominium Ownership as amended from time to time, by which the Condominium Units will be submitted to the Act.
- 1.18 **Condominium Parcel.** That part of the Real Estate described on Exhibit C. The Declarant hereafter may submit portions of the Condominium Parcel to this Declaration pursuant to Article Eight hereof.
- 1.19 **Condominium Unit.** A residential unit, as defined in the Condominium Declaration, which will be submitted to the Act together with such Condominium Units' undivided interest in the common elements under the Condominium Declaration in accordance with Article Eight via an Add-on Amendment.
- 1.20 **Covered Remediation Work.** The work required to be performed by Declarant to obtain a NFR Letter.
- 1.21 **Declarant.** Jazz on the Boulevard, LLC, a Delaware limited liability company.
- 1.22 **Declaration.** This instrument.
- 1.23 **Declaration of Restrictive Covenants.** The certain Declaration of Restrictive Covenants among the CHA, Declarant and Investment Partnership requiring the maintenance and operation of the Public Housing Rental Units in compliance with a ll applicable public housing requirements for the period set forth therein, recorded in the Office of the Recorder of Deeds of Cook County, Illinois on August 12, 2004 as document number 0422501208.
- 1.24 **Development.** The aggregate of the Condominium Units, the Townhome Units and Roadway Parcel Improvements, as depicted on the Site Plan and all common elements, easements and rights appurtenant thereto.
- 1.25 **Estimated Annual Common Expenses.** The total estimated amount of the Common Expenses, on an annual basis, determined in accordance herewith.
- 1.26 **Extended Use Agreement.** The Extended Use Agreement, City and the Extended Use Agreement, IHDA.
- 1.27 **Extended Use Agreement, City.** The Regulatory Agreement, dated as of August 1, 2004 between the Declarant and the City requiring the maintenance and operation of the Public Housing Rental Units in compliance with Section 42 of the Code for the period set forth therein, recorded in the Office of the Recorder of Deeds of Cook County, Illinois on August 12, 2004 as document number 0422501211.
- 1.28 **Extended Use Agreement, IHDA.** The Regulatory and Land Use Restriction Agreement, dated as of August 1, 2004 among the Declarant and the Illinois Housing Development Authority requiring the maintenance and operation of the Affordable Rental Unit in compliance with Section 42 of the Code for the period set forth therein, recorded in the Office of the Recorder of Deeds of Cook County, Illinois on August 12, 2004 as document number 0422501213.
- 1.29 **HUD.** The United States Department of Housing and Urban Development.



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- 1.30 **IEPA**. The Illinois Environmental Protection Agency.
- 1.31 **Indemnified Party(ies)**. The Community Association and/or its employees, agents, contractors and invitees.
- 1.32 **Investment Partnership**. Drexel Jazz Limited Partnership, an Illinois limited partnership, and its successors and assigns.
- 1.33 **Market Rate For-Sale Units**. The for sale Units in the Development that may be sold at the market rate without any income qualification or affordability requirements.
- 1.34 **NFR Letter**. The No Further Remediation Letter(s) issued by the IEPA for the Development or portions thereof in connection with the implementation of a Remedial Action Plan for the Development and which contain certain on going post-remediation requirements for the use and occupancy of the Development, or such portions thereof.
- 1.35 **Not-For-Profit Corporation Act**. Illinois General Not For Profit Corporation Act of 1986, 805 ILCS 105.
- 1.36 **Occupant**. A Person or Persons who occupy a Unit as a Unit Owner, a family member or as a tenant who has executed a written lease for a Unit with a Unit Owner.
- 1.37 **Percentage Interests**. The percentage of the total interests in the Community Association allocated to each Unit, as applicable, in the Development in accordance with Section 3.05 hereof, subject to adjustment in accordance with Article Eight hereof.
- 1.38 **Perimeter Parkway Improvements**. The sidewalks, trees and landscaping to be constructed, installed and erected by the City within that part of the existing City right of way located along the perimeter boundaries of the Real Estate, between the street curb and the lot line of the Real Estate.
- 1.39 **Person**. A natural individual, corporation, partnership, trustee or other legal entity holding title to a Unit.
- 1.40 **Plat**. The plat(s) of survey setting forth the perimeter boundaries of the Real Estate or any portion thereof and any improvements thereto.
- 1.41 **Public Housing Rental Units**. The Units in the Development which shall be sold to the Investment Partnership and thereafter leased (or otherwise made available for occupancy) to CHA residents subject to, and in accordance with, the Regulatory and Operating Agreement.
- 1.42 **Qualified Household**. A single person, family or unrelated persons living together whose aggregate adjusted income is not more than 120% of the AMI.
- 1.43 **Qualifying Tenants**. Individuals or families selected in accordance with the tenant selection criteria approved by the CHA, HUD, the Receiver and the Investment Partnership whose aggregate adjusted incomes do not exceed 60% of the AMI.

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- 1.44 **Real Estate**. The real property legally described on Exhibit A in which the Declarant owns title in fee simple.
- 1.45 **Receiver**. Daniel E. Levin and The Habitat Company LLC, an Illinois limited liability company. Any rights of the Receiver, as provided herein, shall exist only for as long as the Declarant remains obligated under its purchase agreement with the Investment Partnership to sell any Public Housing Rental Units.
- 1.46 **Regulatory And Operating Agreement**. That certain Regulatory and Operating Agreement dated August 1, 2004, among the CHA, Declarant and Investment Partnership relating to the operation and maintenance of the Public Housing Rental Units, recorded in the Office of the Recorder of Deeds of Cook County, Illinois on August 12, 2004 as document number 0422501210.
- 1.47 **Rental Mortgagee**. A holder of a recorded mortgage encumbering the Public Housing Rental Units.
- 1.48 **Residential Property**. The portions of the Condominium Parcel and the Townhome Parcel upon which buildings containing a Unit or Units have been constructed or will be constructed, which have been subjected to the provisions of this Declaration.
- 1.49 **Roadway Parcel**. That real property legally described on Exhibit F which has been restricted, pursuant to this Declaration, for use as vehicular and pedestrian ingress and egress to and from all public and private ways which adjoin the Residential Property for benefit of all Unit Owners.
- 1.50 **Roadway Parcel Improvements**. The walkways, pathways, landscaping, light fixtures, pipes, cables, conduits and other facilities for the provision of utility service and facilities for drainage and detention as permitted to or constructed or installed within the Roadway Parcel as necessary to support the uses permitted hereby.
- 1.51 **Site Plan**. The site plan of the Development attached hereto as Exhibit E.
- 1.52 **Special Amendment**. Any Amendment made in accordance with the provisions of Section 9.02 hereof.
- 1.53 **SRP**. The Site Remediation Program created under Title 17 of the Illinois Environmental Protection Act and 35 Ill. Administrative Code, Part 740.
- 1.54 **TIF Redevelopment Agreement**. That certain Drexel Boulevard Transformation Project Redevelopment Agreement dated August 1, 2004, among the City, Declarant and Investment Partnership relating to the Development, recorded in the Office of the Recorder of Deeds of Cook County, Illinois on August 12, 2004 as document number 0422501212.
- 1.55 **Townhome Parcel**. That part of the Real Estate described on Exhibit D.
- 1.56 **Townhome Unit**. A single-family unit constructed on the portion of the Residential Property, which is attached to other units by common walls and has not been submitted to the Act as a Condominium Unit .

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- 1.57 **Transfer Certification.** A certification signed by the Declarant which (a) references the Roadway Parcel and (b) contains the following statements: (i) that all of the Units to be constructed by the Declarant on the Real Estate have been completed; (ii) that construction of the Roadway Parcel Improvements have been completed; (iii) that the initial Board has been elected pursuant to this Declaration and the By-Laws; and (iv) that the Declarant has conveyed its rights, title and obligations to the Roadway Parcel to the Community Association.
- 1.58 **Transfer Date.** The date that the Transfer Certification is recorded by the Declarant.
- 1.59 **Unit.** A Condominium Unit and/or a Townhome Unit.
- 1.60 **Unit Owner.** The Person or entity holding fee simple title to a Unit.
- 1.61 **Unit Ownership.** A Unit Owner's ownership of a Unit.
- 1.62 **USTs.** Underground storage tanks which are subject to regulation under the Illinois Environmental Protection Act.

## ARTICLE TWO

### Declaration of Easements; General

- 2.01 **Easements.** Subject to Article Four hereof, the Declarant hereby impresses its fee simple title in and to the Roadway Parcel with an easement for use as a private roadway for reasonable vehicular and pedestrian ingress and egress (i) to and from all public and private ways which adjoin the Residential Property, and (ii) to and from the deeded parking spaces located on the west side of the Roadway Parcel. The easement shall be deemed appurtenant to the Condominium Parcel and the Townhome Parcel and for the use and benefit of all Unit Owners and the Declarant, and their respective successors, assigns and invitees. The Roadway Parcel may be improved only with the Roadway Parcel Improvements. All improvements erected or constructed on the Roadway Parcel shall conform to the requirements of applicable laws and ordinances, including applicable zoning ordinances. The foregoing easement shall run with the land and shall burden the Roadway Parcel for the benefit of the Condominium Parcel and Townhome Parcel. The use by such Unit Owners, Occupants, guests and invitees of the Roadway Parcel shall be subject to regulation by Declarant until the Transfer Date and from and after the Transfer Date by such reasonable rules and regulations as the Board may promulgate.
- 2.02 **Title.** The fee simple estate in the Roadway Parcel shall be held initially by the Declarant and shall be conveyed to the Community Association upon the Transfer Date. Title to certain of the Common Service Improvements will be held as a common element by the Unit Owners of the Condominium Association and title to certain of the Common Service Improvements will be held by individual Unit Owners. The Perimeter Parkway Improvements are located within the public right-of-way and will be owned by the City.
- 2.03 **General Purpose.** All Units shall have the benefit of and shall be subject to certain covenants, restrictions and easements, as more specifically and particularly described herein. Each Unit Owner and Occupant shall, at all times, enjoy the benefits of and shall hold its interests subject to the rights, easements, privileges and restrictions set forth

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herein in common with the other Unit Owners. Each Unit Owner shall be a member of the Community Association. The Condominium Units will be submitted to the Act pursuant to and subject to the Condominium Declaration and amendments thereto. It is intended that this Declaration and the Condominium Declaration shall compliment each other and shall provide reciprocal benefits for all of the members of the Community Association where applicable. Unit Owners owning Condominium Units will also be subject to the requirements of, and benefits afforded under, the Condominium Declaration, as well as this Declaration.

- 2.04 **Utility Easements.** The City of Chicago, SBC, Commonwealth Edison Company, Peoples Energy, Northern Illinois Gas Company, and all other public and private utilities now or hereafter serving portions of the Residential Property are hereby granted the right to lay, construct, renew, operate, and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, onto and through the Residential Property for the purpose of providing services to the Residential Property. Such utility easements may be located upon such parts of the Residential Property as the Declarant, prior to the election of the initial Board, and from and after the election of the first Board, as the Community Association, may determine, provided only that the same do not unreasonably interfere with the use of the Residential Property for its intended purpose as enumerated in this Declaration. Such utility easements may be located upon such parts of the Roadway Parcel as the Declarant, prior to the Transfer Date, and from and after the Transfer Date, as the Community Association, may determine, provided only that the same do not unreasonably interfere with the use of Roadway Parcel for its intended purpose as enumerated in this Declaration.
- 2.05 **Drainage and Detention Easements.** The Roadway Parcel and certain common areas of the Residential Property are hereby declared to be impressed with an easement for drainage and detention, which easement shall be deemed appurtenant to the portions of the Residential Property using and benefiting from such easements. The Roadway Parcel may be improved with Roadway Parcel Improvements as may be necessary to facilitate the operation of the Development.
- 2.06 **Easements To Run With The Land.** All easements and rights described in this Article Two are easements appurtenant running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Declarant, the Community Association, any Unit Owner, Occupant, purchaser, mortgagee and other Persons having an interest in the Development, or any part or portion thereof.

## ARTICLE THREE Drexel Blvd./42<sup>nd</sup> Street Community Association

- 3.01 **Incorporation of Association.** In order to carry out the intent and purposes hereof, an Illinois not-for-profit corporation known as Drexel Blvd./42<sup>nd</sup> Street Community Association has been organized pursuant to the Not-For-Profit Corporation Act, the provisions of this Declaration, its articles of incorporation and By-Laws.
- 3.02 **Community Association as Master Association.** The Community Association shall, to the extent required by Section 18.5 of the Act, constitute and conduct its operations as a "master association" under such Section 18.5 and such Section 18.5 shall govern and control over any conflicting provisions of this Declaration. Anything herein to the

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contrary notwithstanding, the Declarant expressly reserves the right and power to record such Amendments to this Declaration as the Declarant determines are necessary to conform this Declaration to the requirements of the Act or any other applicable law. No consent by any mortgagees existing at the time of the recording of such conforming Amendment shall be required to amend this Declaration.

- 3.03 **Administration of Association.** The Community Association shall initially be administered by the Declarant. After the election of the initial Board, the Community Association shall be administered by a duly elected Board, in accordance with the Act, By-Laws and the Not-For-Profit Corporation Act. The initial election of the Board shall occur no later than sixty (60) days after the conveyance by the Declarant of seventy five percent (75%) of the Units or three (3) years after the recording of this Declaration, whichever is earlier. The designation of officers, election procedures, powers of the Board, committee structure and other functions of a not-for-profit corporation are further set forth in the By-Laws.
- 3.04 **Membership.** The Unit Owners shall be the members of the Community Association. The Declarant shall be and remain a member of the Community Association to the extent that it is a Unit Owner of a Unit. When a Unit is owned by more than one Person, all such Persons shall be members of the Community Association, subject to the terms of the By-Laws. Each Unit Owner, by acceptance of a deed, whether or not it shall be so expressed in any such deed, shall be deemed to covenant and agree to be bound by and to observe the terms and provisions of this Declaration, the Community Association's articles of incorporation, its By-Laws and the rules and regulations promulgated from time to time by the Community Association, its Board and/or officers.
- 3.05 **Percentage Interests.** The percentage of the total voting interests in the Community Association shall be initially allocated based upon the Percentage Interest assigned to each Unit as determined herein and subject to adjustment pursuant to Article Eight. The Percentage Interests shall be determined by multiplying one hundred percent (100%), times a fraction, the numerator of which shall be the total number of saleable square feet of each Unit, as determined by Declarant, and the denominator of which shall be the aggregate number of saleable square feet of all Units subjected to this Declaration. The Percentage Interests of all Units subject to this Declaration are set forth on Exhibit G. Additional Units may be submitted to this Declaration from time to time by the recording of an Add-on Amendment to this Declaration in accordance with Article Eight hereof and the Percentage Interests shall be adjusted and revised accordingly and set forth in each such Add-on Amendment.
- 3.06 **Control of Community Association By Declarant.** Until the election by the Unit Owners of the initial Board, the rights, titles, privileges, duties and obligations of the Board provided by this Article Three shall be held, exercised and performed by the Declarant, including the authority to enter into service contracts with respect to any part of the Development, all upon such terms as the Declarant deems appropriate. Furthermore, the Declarant or its agents further reserve the right to use Units in which it still holds legal title or an equitable interest for temporary storage, office and related purposes. The Declarant shall have the right, as a Unit Owner, to lease one or more of such Units, subject to the terms and provisions of the Declaration. This section cannot be amended or deleted without the consent of Declarant so long as Declarant holds legal title to any Unit.

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## ARTICLE FOUR

### Right to Use the Roadway Parcel and Roadway Parcel Improvements

- 4.01 **Control of Roadway Parcel by Declarant.** Until the conveyance by the Declarant of its interest in the Roadway Parcel pursuant to Section 2.02 hereof the rights, titles, privileges, duties and obligations of the Community Association relative to the Roadway Parcel provided by this Declaration shall be held, exercised and performed by the Declarant, all upon such terms as the Declarant deems appropriate. Furthermore, until the Transfer Date, the Declarant shall have the right to use the Roadway Parcel for pedestrian and vehicular (including construction equipment) access to the portions of the Real Estate owned by the Declarant and for construction staging and storing of construction equipment, materials and fill as necessary to complete the Development. The Declarant shall also have the right, until the Transfer Date, to grant easements for the installation, maintenance, repair and replacement of utilities as may be necessary to complete the Development.
- 4.02 **Limitations Upon Rights of Use.** From and after the Transfer Date, the rights of use and enjoyment of the Roadway Parcel created hereby shall be limited by and subject to the Community Association's right to:
- (a) Dedicate or transfer all or any part of its interest in the Roadway Parcel to any public agency or authority, subject to the consent of a two-thirds (2/3) majority of the Percentage Interests at a meeting of the Unit Owners duly called for such purpose.
  - (b) Grant easements on, over or under any part of the Roadway Parcel for utility purposes, subject to the consent of Unit Owners representing a two-thirds (2/3) majority of the Percentage Interests at a meeting of the Unit Owners duly called for such purpose.
  - (c) Grant easements on, over or under any part of the Roadway Parcel for television cable, subject to the consent of Unit Owners representing the more than one-half (1/2) of the Percentage Interests at a meeting of the Unit Owners duly called for such purpose.
  - (d) Levy appropriate fines against any Unit Owner for any misconduct of an Unit Owner, Occupant, family member, guest or invitee of such Unit Owner for violation of any rules and regulations applicable to the Roadway Parcel, upon providing written notice and an opportunity to be heard.

## ARTICLE FIVE

### Party Walls; Townhome Units

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- 5.01 **Party Walls and Use.** All dividing walls which straddle the boundary line between the Townhome Units or which stand partly upon one Townhome Unit and partly upon another, and all walls which serve two or more Townhome Units, shall at all times be considered party walls, and each of the Unit Owners of Townhome Units upon or between which any such party wall shall stand shall have the right to use said party wall below and above the surface of the ground and along the whole length or any part of the length thereof for the support of said Townhome Units and for the support of any building constructed to replace the same, and shall have the right to maintain in or on said wall any pipes, ducts or conduits originally located therein or thereon subject to the restrictions hereinafter contained.
- 5.02 **No Extension of Party Walls.** No Unit Owner of a Townhome Unit shall have the right to extend said party wall in any manner, either in length, height or thickness.
- 5.03 **Damage or Destruction; Repair or Rebuilding.** In the event of damage to or destruction by fire or other casualty of any party wall, including the foundation thereof, the Unit Owners of Townhome Units sharing such party wall shall have the obligation to repair or rebuild such party wall and shall pay equal shares of the cost of such repair or rebuilding. All such repair or rebuilding shall be done within a reasonable time, in a workmanlike manner with materials comparable to those used in the original party wall and shall conform in all respects to the then applicable law and be erected in the same location and on the same line and be of the same size as the original party wall. All construction performed under this Article Five shall be subject to the terms of Article Nine of this Declaration.
- 5.04 **Contribution.** Notwithstanding the provisions of Section 5.03 hereof, the Unit Owner of a Townhome Unit or other interested party, shall retain the right to receive a larger contribution from another Unit Owner of a Townhome Unit or others under any rule or law regarding liability for negligence or willful acts or omissions that contributes to the damage or destruction of such party wall. The right of any Unit Owner of a Townhome Unit, or other interested party, to contribution from any other Unit Owner of a Townhome Unit under this Article Five shall be appurtenant to the land and shall pass to such Unit Owners of a Townhome Unit or other person's successors in title.
- 5.05 **Cross Easement.** The title of each Unit Owner of a Townhome Unit sharing a party wall is subject to a cross easement in favor of the adjoining Unit Owner of a Townhome Unit for joint use of said wall.

## ARTICLE SIX

### **Assessments - Maintenance of Roadway Parcel, Perimeter Parkway Improvements, Common Service Improvements and Roadway Parcel Improvements**

- 6.01 **Allocation.** Upon approval by the Community Association at its annual meeting of the Annual Budget in accordance with the By-Laws, the Community Association shall levy a monthly assessment on each Unit. Each Unit's monthly assessment shall equal the product of (a) the Unit's Percentage Interest, (b) times the amount of the Estimated Annual Common Expenses for such calendar year, and (c) times one-twelfth (1/12). Each Unit Owner, by acceptance of its respective deed, shall be deemed to have covenanted and agreed to pay to the Community Association the assessments provided for herein and in such By-Laws in a timely manner, whether or not such covenant or

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condition shall be so expressed in any such deed or other conveyance. The Community Association shall have all remedies available hereunder, under the Act and in law or in equity to enforce the collection of assessments. The Board may charge a late fee for the late or delinquent payment of any assessment. Late fees and all costs of collection, including legal fees, shall be assessed to the Unit Owner at the time they are incurred.

- 6.02 **Liens.** Assessments levied by the Community Association shall give rise to a lien against the Unit until said assessment is paid in full, provided, however, that the lien, relating to such assessment, shall be subordinate to the mortgage of the Rental Mortgagee, the Declaration of Restrictive Covenants, the Regulatory and Operating Agreement and the lien of any recorded first mortgage or trust deed owned or held by a bank, insurance company, savings and loan association, or other lender except for the amount of the assessments which become due and payable from and after the date on which such mortgagee either takes possession of the Unit Owner's estate in any Unit or accepts a conveyance of any interest therein (other than as security), or causes a receiver to be appointed.
- 6.03 **Remedies For Failure To Pay Assessments.** If a Unit Owner defaults in the monthly payment of any assessment, the Board or its agent may file an action or actions in the appropriate court having jurisdiction over the matter to collect the assessment or pursue any other remedies available at law or in equity, either separately or concurrently, all such remedies being cumulative and concurrent.
- 6.04 **Control By Declarant.** Until the election by the Unit Owners of the initial Board, the rights, titles, privileges, duties and obligations of the Board provided by this Article Six shall be held, exercised and performed by the Declarant.

## ARTICLE SEVEN Common Restrictions

- 7.01 **Maintenance of Environmental Barrier.** The Development shall be remediated to the extent necessary to obtain from the Illinois Environmental Protection Agency ("IEPA") a comprehensive No Further Remediation Letter (each, an "NFR Letter"). Each such NFR Letter shall be issued pursuant to the Site Remediation Program (the "SRP") created under Title 17 of the Illinois Environmental Protection Act and 35 Ill. Admin. Code Part 740. In addition, to the extent that any underground storage tanks ("USTs") exist at the Development, the Declarant intends that the USTs will be removed and any associated contamination will be remediated so as to obtain from IEPA either (i) a "clean closure" determination with respect to any USTs as to which no releases have occurred or (ii) a NFR Letter either under Title 16 of the Illinois Environmental Protection Act or under the SRP, whichever is applicable to the particular UST. Each such NFR Letter shall be unconditional except for conditions relating to: (i) maintenance of engineered barriers, (ii) limitations on the use of ground water, (iii) maintenance in force of existing laws or regulations, (iv) recording or other documentary requirements, and (v) requirements of all governmental authorities having jurisdiction over the Development that do not add unreasonable economic cost or unreasonable risks of liability to the Development or the Declarant and that are necessary to obtain the NFR Letters. All Unit Owners shall comply with the conditions set forth in any NFR Letter recorded against any land underlying such Unit Owner's Unit and, from and after the Transfer Date, the Community



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Association shall comply with the conditions set forth in any NFR Letter recorded against the Roadway Parcel.

- 7.02 **Restrictions Relating To Units.** All Units shall be used exclusively for residential purposes as permitted under the City of Chicago Residential Commercial Planned Development Ordinance Number 838, as the same may be amended from time to time.
- 7.03 **Subdivision of Units.** No Unit shall be divided or subdivided or a fraction thereof sold or conveyed.
- 7.04 **Business or Commercial Activities.** No Unit shall be used at any time primarily for business or commercial activities, provided that business uses which are incidental to the primary residential uses are permissible.
- 7.05 **Maintenance.**
- (a) All Units (including the common elements appurtenant thereto) shall be kept and maintained in a clean, safe, attractive and sightly condition, in good repair and kept in conformance with the overall original structure and plan of the Development. Maintenance of the Roadway Parcel and the Roadway Parcel Improvements shall be the responsibility of the Declarant until the Transfer Date and thereafter the Community Association shall maintain the Roadway Parcel at its sole cost and expense.
  - (b) In addition to maintaining the Roadway Parcel following the Transfer Date, the Community Association shall provide the following services:
    - i. Snow removal service from the Common Service Improvements.
    - ii. Regular removal of garbage and debris from the Common Service Improvements, if not provided by the City of Chicago.
    - iii. Landscaping services, such as mowing of lawn areas and trimming of trees and hedges with respect to the Common Service Improvements, as more particularly provided in Section 7.15 hereof.
- 7.06 **Noxious or Offensive Activities.** No noxious or offensive activities shall be carried on in any part of the Development, nor shall anything be done which is or may become a nuisance or cause a disturbance or annoyance to others. No activities may be carried out in or on the Roadway Parcel which might, in the reasonable judgment of the Declarant, prior to the Transfer Date, and thereafter, the Board, increase the liability or rates of insurance of the Declarant or the Community Association, as applicable.
- 7.07 **No Hazardous Activities.** No activities shall be conducted, nor shall any improvements be constructed, on the Residential Property which are or might be unsafe or hazardous to any person or property. No firearms shall be discharged upon any part of the Residential Property, and no open fires shall be lighted or permitted on any part thereof.
- 7.08 **Alterations and Restrictions.**

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- (a) No masts, antennas or other structures designed for transmitting or receiving messages or programs by radio, television or in any other wireless manner shall be erected, permitted or maintained upon the exterior of any Unit without the express written permission of the Board.
- (b) No rabbits, poultry or other farm animals of any kind, character or species shall be kept upon or maintained at or within any Unit.
- (c) Subject to the Declarant's rights under Section 4.01 hereof to use the Roadway Parcel as a construction staging area, no waste, metals, bulk materials, scrap, refuse or trash shall be kept, stored or allowed to accumulate on unenclosed areas of the Residential Property, other than normal residential household waste material stored in enclosed receptacles.
- 7.09 **No Annoying Lights, Sounds or Odors.** No lighting shall be maintained in or outside of any Unit or any condominium building containing Units or the Roadway Parcel which is unreasonably bright or causes unreasonable glare. No sounds shall be emitted which are unreasonably loud and annoying, and no odor shall be emitted from any part of the Residential Property which is noxious or offensive to others.
- 7.10 **No Temporary Structures.** No tent, shed or temporary building or improvement shall be placed upon any part of the Residential Property unless specifically approved by the Board, in writing, or permitted under the rules and regulations duly adopted by the Board.
- 7.11 **Restriction on Signs.** Except as provided for under Section 2.01, no signs or other advertising device shall be erected or maintained on any part of the Residential Property unless specifically approved by the Board in writing.
- 7.12 **Restriction on Alterations and Additions.** No architectural changes, additions or painting which would materially deviate from the architectural character of the Development, may be made to the exterior of any condominium building, Unit or part of a Unit, including any porch, deck or balcony (if any), without the approval of the Board or a duly authorized committee of members of the Community Association appointed by the Board, and subject to the terms and conditions as further set forth herein. Any requested changes shall be submitted to the Board or its designated committee. In the event the Board, or its designated committee, fails to approve or disapprove any design plans and specifications within sixty (60) days after said plans and specifications have been submitted, such approval will be deemed given and the provisions of this Article Seven shall be deemed to have been fully satisfied. If any changes or additions to any such Units or condominium building requiring the approval of the Board pursuant to this Article Seven are commenced without first having submitted plans and specifications for approval, the Board may maintain a cause of action in equity to enjoin such changes. The decision of the Board as to any such changes shall be final.
- 7.13 **Grading.** There shall be no change in the grading of any part of the Residential Property, nor shall any established pattern of drainage of surface waters be altered without the approval of the Community Association.
- 7.14 **Parking Areas.** The use of any parking area situated on the Residential Property for the permanent parking of commercial or recreational vehicles is prohibited, except if used in

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accordance with Section 4.01 hereof. Commercial vehicles include, but are not limited to, tractor trailers, buses and tow trucks. Recreational vehicles include, but are not limited to, campers, mobile homes and trailers.

## 7.15 Landscaping.

- (a) The Community Association shall provide Common Services with respect to the Common Service Improvements, including the front and back yards of the condominium building and Townhome Units. The cost of maintaining the same shall be allocated to the Unit Owners based upon their Percentage Interests as provided for herein.
- (b) The Board, and/or its duly authorized committee, shall adopt a landscape maintenance policy for the Development and may from time to time modify said policy. In all instances, the decision of the Board with respect to provisions of landscaping services to the Development shall be final. Such landscape maintenance policy shall include only the maintenance of existing landscape and improvements and not the replacement of existing landscape and improvements. It is the express intent that any replacement of such landscape and improvements shall be the responsibility of, and at the cost of, the Unit Owner or Condominium Association with respect to Common Service Improvements situated on land owned by such Unit Owner or which comprises a common element under the applicable Condominium Declaration, and the City with respect to the Perimeter Parkway Improvements and the other Common Service Improvements located in the public right-of-way. As hereinafter provided in the By-Laws, the Unit Owners or Condominium Association may petition the Community Association to replace certain Common Service Improvements. The cost of any such replacement of any Common Service Improvements shall be borne by the Unit Owner or the Condominium Association requesting the replacement.
- (c) No plants or seeds, trees, shrubberies or bushes shall be placed upon any part of the Residential Property which are prohibited by the landscape maintenance policy adopted by the Board, and no plants, trees or shrubberies shall be removed from any part of the Residential Property in violation of the landscape maintenance policy adopted by the Board without the prior written approval of the Board. However, Unit Owners of Townhome Units are allowed to maintain their own personal garden in their backyard areas, subject to any rules and regulations adopted by the Board.

7.16 Violations. In the event of any violation of the provisions of this Article Seven, the Community Association shall have the authority to the fullest extent permitted by law, upon prior written notice, to enter upon areas of the Residential Property, including the common areas of any condominium building containing Condominium Units and the front and back yards of the Townhome Units, to:

- (a) Remove any article, shrubbery or personal item located thereon that contravenes the requirements of this Declaration.

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(b) Repair, replace and repaint the exterior components of any of the Townhome Units and condominium building containing Condominium Units which would materially deviate from the architectural character of the Development.

- 7.17 **Waiver.** Each Unit Owner hereby agrees, to the fullest extent permitted by law, to waive any and all claims against the Community Association or its employees, agents, contractors and invitees (singly, an "Indemnified Party" and collectively, the "Indemnified Parties") for any loss, cost, damages, liability and expense arising directly or indirectly from or in connection with the performance by the Community Association or any other of the Indemnified Parties of the services contemplated by this Article Seven, except to the extent caused directly by the Indemnified Party's gross negligence or willful misconduct.
- 7.18 **Application To Roadway Parcel.** No rights conferred by this Article Seven shall be exercisable in a manner so as to impair the rights of the Declarant to control the use of the Roadway Parcel pursuant to Section 4.01 hereof prior to the conveyance by the Declarant to the Community Association of its estate in the Roadway Parcel in accordance with Section 2.02 hereof.

## ARTICLE EIGHT Annexing Additional Property

- 8.01 **Addition of Units.** The Declarant, and its successors and assigns, hereby reserves the right and option, at any time and from time to time, within five (5) years from the date of the recording in the Office of the Recorder of Deeds of Cook County, Illinois of this Declaration to record Amendments (each, an "Add-on Amendment") submitting Condominium Units constructed on portions of the Condominium Parcel to this Declaration and the provisions of the Act relating to master associations upon completion of construction of Condominium Units thereon, and in connection therewith to admit the Unit Owners of such Condominium Units as members of the Community Association and reallocate Percentage Interests in accordance with Section 3.05 by recording an Add-on Amendment to this Declaration executed by the Declarant which shall set forth the legal description of the Condominium Units within the Condominium Parcel to be subjected to the provisions of this Declaration and the Act relating to master associations and which shall, to the extent required, otherwise be in compliance with the requirements of the Act. Upon the recording of every such Add-on Amendment, the applicable Condominium Unit shall be deemed submitted to the provisions of this Declaration and the Act relating to master associations and governed in all respects by the provisions of this Declaration and the applicable provisions of the Act. No Condominium Unit shall be subject to any of the provisions of this Declaration and no Unit Owner of a Condominium Unit shall become a member of the Community Association unless and until an Add-on Amendment to this Declaration is recorded subjecting such Condominium Unit to this Declaration.

Neither the Community Association, nor the Unit Owners shall have any rights whatsoever under this Declaration with respect to any Condominium Unit until an Add-on Amendment to this Declaration is recorded adding such Condominium Unit to the Residential Property previously submitted to the provisions of this Declaration and the Act relating to master associations and subjecting such Condominium Units to the provisions of this Declaration and the Act relating to master associations as aforesaid.

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Upon the expiration of said five (5) year period, no Condominium Units which have not theretofore been submitted to the provisions of this Declaration and the Act relating to master associations shall thereafter be submitted to the provisions of this Declaration and the Act relating to master associations by recording of an Add-on Amendment to this Declaration. Condominium Units may be submitted to the provisions of this Declaration and the Act relating to master associations at different times within such five (5) year period. Except as may be required by applicable laws and ordinances, there shall be no limitations (i) on the order in which Condominium Units constructed on portions of the Condominium Parcel may be added to the Development, (ii) fixing the boundaries of Condominium Units constructed on these portions of the Condominium Parcel, or (iii) on the location of improvements which may be made on the Condominium Parcel. The maximum number of Condominium Units which shall be created on the Condominium Parcel is sixteen (16). Structures, improvements, buildings and units to be constructed on portions of the Condominium Parcel must, except to the extent required by applicable laws and ordinances, be compatible with the configuration of the Development in relation to density, use, construction and architectural style.

8.02 **Add-on Amendments To Declaration.** Every Add-on Amendment to this Declaration made under this Article Eight shall include:

- (a) The legal description of the applicable Condominium Units affected by the Add-on Amendment;
- (b) A certificate of correction to the Plat which shall show the location of the Condominium Units affected by the Add-on Amendment and delineate and describe such Condominium Units constructed therein;
- (c) An amendment to Exhibit G attached hereto which shall set forth the amended Percentage Interests, adjustment to voting rights and changes in liability for Common Expenses, determined in accordance with Section 3.05; and
- (d) All of the provisions of this Declaration, as amended by every successive Add-on Amendment, shall be deemed to apply to all of the Units, whether previously subjected to this Declaration or the subject of a then current Add-on Amendment to this Declaration.

The recording of an Add-on Amendment to this Declaration pursuant to this Article Eight shall not alter or affect the amount of any lien for Common Expenses due from the Unit Owners of any Unit prior to such recording, nor the respective amounts theretofore assessed to or due from the Unit Owners for Common Expenses or other assessments.

8.03 **Existing Mortgages.** Upon recording of every Add-on Amendment to this Declaration made in accordance with this Article Eight, the lien of every mortgage encumbering a Unit shall automatically be deemed to be adjusted and amended to encumber such Unit and the rights and interests in the Roadway Parcel appurtenant to such Unit as provided in this Declaration and the lien of such mortgage shall automatically attach to such appurtenant rights and interests.

8.04 **Binding Effect.** Every holder of a mortgage on any portion of the Residential Property and each Unit Owner and every mortgagee, grantee, heir, administrator, executor, legal

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representative, successor and assign of such Unit Owner, by such person's or entity's acceptance of any deed or mortgage or other interest in or with respect to any part of the Residential Property or any Unit, shall be deemed to have expressly agreed and consented to (i) each and all of the provisions of this Article Eight, (ii) the recording of every Add-on Amendment to this Declaration made and recorded from time to time as provided in this Article Eight; and (iii) all of the provisions of every Add-on Amendment to this Declaration which may hereafter be made and recorded in accordance with the provisions of this Article Eight. A power coupled with an interest is hereby granted to the Declarant as attorney in fact to amend and adjust the Percentage Interests from time to time in accordance with Section 3.05 hereof and this Article Eight and pursuant to an Add-on Amendment to this Declaration made and recorded pursuant hereto. The acceptance by any persons or entities of any deed, mortgage or other instrument with respect to any Unit, in addition to the foregoing, shall be deemed to constitute a consent and agreement to and acceptance and confirmation by such person or entity of such power to such attorney in fact and of each of the following provisions as though fully set forth in such deed, mortgage or other instrument:

- (a) The Percentage Interest of each Unit shall automatically be deemed reallocated among all Units in accordance with the amended and adjusted Percentage Interests set forth in every such Add-on Amendment to this Declaration;
- (b) Such deed, mortgage or other instrument shall be deemed given upon a conditional limitation to the effect that the Percentage Interest allocable to each Unit shall be deemed divested *pro tanto* upon the recording of every such Add-on Amendment to this Declaration and revested and reallocated among the respective Units in accordance with the amended and adjusted Percentage Interests set forth in every such Add-on Amendment to this Declaration;
- (c) To the extent required for the purposes of so amending and adjusting such Percentage Interests as aforesaid, a right of revocation shall be deemed reserved by the grantor of such deed, mortgage or other instrument with respect to such Percentage Interests;
- (d) Such adjustments of the Percentage Interests, as set forth in every such Add-on Amendment to this Declaration made in accordance with this Article Eight, shall be deemed to be made by agreement of all Unit Owners, mortgagees and other persons having any interest in the Development, and shall also be deemed to be an agreement of all Unit Owners and such other persons to such changes within the contemplation of this Declaration and the Act; and
- (e) Every Unit Owner and mortgagee, by acceptance of the deed conveying its Unit Ownership or mortgage, agrees for itself and all those claiming under it, including mortgagees, that this Declaration, and every Add-on Amendment to this Declaration, made in accordance with this Article Eight is and shall be deemed to be in accordance with the Act.

8.05 **Notice.** Prior to the recording of an Add-on Amendment, the Declarant shall deliver written notice to the Receiver of its intent to record an Add-on Amendment.

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## ARTICLE NINE Amendments

- 9.01 **Power To Amend.** Subject to the provisions herein, this Declaration may be amended by a written Amendment duly passed by the Board in accordance with the By-Laws and with the prior written consent of the City, the Rental Mortgagee and each mortgagee that has a lien secured by Units having, in aggregate, a Percentage Interest of five percent (5%) or more. However, any Amendment that (a) revises the method of computing Percentage Interests; (b) provides for the sale of the Roadway Parcel; or (c) limits or changes the uses of the Roadway Parcel shall require the approval of one hundred percent (100%) of the Unit Owners, the City, Rental Mortgagee and the mortgagees that have a lien secured on a Unit. Approval of the City, Rental Mortgagee and holders of first mortgages or trust deeds of Units shall be assumed when such party fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives notice of the proposal by certified mail, return receipt requested.
- 9.02 **Special Amendments.** A power coupled with an interest is hereby retained by and granted to the Declarant, its successors, assigns or designees, as attorney-in-fact to amend this Declaration at any time and from time to time which amends this Declaration, the By-laws or the Articles of Incorporation for the purpose of (i) compliance with requirements of Fannie Mae, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD, the Federal Housing Administration, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) inducing any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Units, (iii) to correct clerical or typographical errors in this Declaration or any exhibit, (iv) bringing this Declaration into compliance with applicable laws, ordinances or governmental regulations, or (v) amending the legal description of any exhibit to this Declaration or Amendment. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Unit Owner. Each deed, lease, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power of the Declarant to make, execute and record Special Amendments. The right and power to make Special Amendments hereunder shall terminate on the date Declarant no longer has the right to appoint all directors of the Board pursuant to Section 3.03 hereof.
- 9.03 **Evidence of Amendment.** Amendments, pursuant to Section 9.01 hereof, shall become effective only if and when a written copy thereof is filed for recording in the Office of the Recorder of Deeds of Cook County, Illinois in conformance with the Act.
- 9.04 **Additional Powers.** The Board may adopt, amend, modify, otherwise alter and enforce additional rules and regulations relating to the use and maintenance of the Roadway Parcel and Roadway Parcel Improvements so long as such rules and regulations are consistent with this Declaration and such action shall not cause the Roadway Parcel, Perimeter Parkway Improvements and Roadway Parcel Improvements, or any part thereof, to be in non-compliance with any zoning ordinance or other applicable government law or regulation. Any such additional rules or regulations shall be evidenced by an appropriate written instrument issued by the Community Association,

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shall become and be effective as of the date of passage as shall be designated in such instrument and shall not be inconsistent with the United States Housing Act of 1937 as amended and the regulations promulgated thereunder

- 9.05 **Copies of Evidence of Exercise of Amendment or Additional Powers.** The Board shall transmit a full, true and complete copy of all Amendments and rules and regulations passed pursuant to this Article Nine to each Unit Owner and Occupant, if any, promptly; provided, however, that failure so to do shall not invalidate or delay the effective date of any action effectuated by such instrument.

## ARTICLE TEN General Provisions

- 10.01 **Duration.** The covenants and restrictions of this Declaration shall perpetually inure to the benefit of and be enforceable by the Community Association, unless amended in accordance with Section 9.01 or terminated in accordance with this Section 10.01 and the Act. The covenants and restrictions contained in this Declaration may be terminated by an instrument signed by the Unit Owners representing one hundred percent (100%) of the Percentage Interests, subject to the consents of all mortgagees and lien holders of any portion of the Development. Any such Amendment or termination shall not become effective until recorded in the Office of the Recorder of Deeds of Cook County, Illinois.
- 10.02 **Eminent Domain.** If the effect of a taking through condemnation of any part of a Unit by any governmental authority having power to do so shall be to segregate any part of the Unit subjected to this Declaration from the remainder of the property subjected to this Declaration so that such segregated Unit or part thereof shall be deemed to have been removed and released from the terms and provisions of this Declaration, then this Declaration shall be of no further force and effect with respect to such Unit or part thereof so taken and the Percentage Interest assigned to such Unit shall be reduced accordingly, upon the basis of diminution in the saleable area of the Unit, as determined by the Board. Upon a taking through condemnation of any part of the Roadway Parcel, the amount of any award shall be applied first to restore the remainder of the Roadway Parcel to the maximum extent possible and the balance, if any, shall be allocated to the Unit Owners in accordance with their Percentage Interests in the Community Association and distributed to the Unit Owners. The responsibility for payment of assessments for any Unit or portion thereof withdrawn from the Condominium Association shall cease.
- 10.03 **Casualty.**
- (a) Each Unit Owner of a Townhome Unit shall procure and maintain in full force at all times insurance covering its Townhome Unit consisting of, or providing all the protections afforded by, the insurance now generally described in an "all risk" policy to one hundred percent (100%) of the full insurable value thereof, with loss payable on the basis of the cost of replacement without deduction for depreciation, less a deductible amount of no more than one thousand dollars (\$1,000.00) and naming the Community Association as additional insured on each policy. Such insurance shall be written by companies rated A or better by A. M. Best's insurance rating service and reasonably acceptable to the Community Association. A certificate of insurance evidencing such coverage shall be furnished to the Community Association and new certificates evidencing



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the renewal of each expiring policy of insurance shall be furnished to the Community Association in each case at least ten (10) days prior to the expiration date of the expiring insurance. In the event a Townhome Unit or any portion thereof shall be damaged or destroyed by fire or other casualty, and the Unit Owner of a Townhome Unit thereof shall cause it to be repaired, restored or reconstructed, as the case may be, the repairs, restoration or reconstruction shall be in the same architectural style and design as was originally constructed and shall conform in all respects to all applicable laws or ordinances in force at the time of such repair, restoration or reconstruction. In the event of the total or substantial destruction of all of the Townhome Units, the architectural design of the Townhome Units to be rebuilt and the materials to be used in constructing same shall be agreed upon among the Owners of a Townhome Unit, and in the absence of agreement, the Townhome Units shall be substantially similar in architectural design as the original Townhome Units and shall be constructed of comparable materials and quality of construction.

- (b) Upon the failure of any Unit Owner of a Townhome Unit to procure and maintain the insurance required in (a) above or, in the event the Board, in its sole discretion, determines that the Townhome Unit is underinsured, the Board shall have the authority to procure such insurance and/or additional insurance, as the case may be, and the costs thereof shall become a lien upon the Townhome Units in the same manner as provided in Article Six hereof for nonpayment of assessments.
- (c) In the event of such damage or destruction of a Townhome Unit, the holder of the mortgage encumbering said Townhome Unit shall cause the proceeds of any insurance required pursuant to (a) hereof to be utilized in restoring the Townhome Unit pursuant to the terms of this Article.
- (d) In any case in which the Unit Owner or Owners of Townhome Units concerned shall fail to carry out and see to the repair, restoration or rebuilding required by the provisions of this Article Ten, the Community Association may, but shall not be obligated to do so, cause such repairs or rebuilding to be furnished, provided and installed, in the manner set forth in (b) hereof provided, however, that to the extent that insurance proceeds referred to in (a) are insufficient as to any Townhome Unit, the particular Owner of a Townhome Unit shall be responsible to the Community Association for such deficiency, and the Community Association shall have, and is hereby granted, a continuing lien on the Townhome Unit for which any such repairs or rebuilding are furnished by the Community Association in the aggregate amount of (i) the amount the cost thereof exceeds insurance proceeds; (ii) interest at the rate of twelve percent (12%) per annum from the date of the Community Association's payment of such costs, and (iii) reasonable attorney's fees and any court or other costs incurred by the Community Association in connection therewith, which lien shall bind such Townhome Unit in the hands of such Unit Owner, his heirs, devisees, personal representatives, grantees and assigns. In the event such Unit Owner does not forthwith fully repay the Community Association therefor, as aforesaid, such lien shall be foreclosed against the Townhome Unit by the Community Association in the same manner as provided in connection with unpaid assessments. The Community Association's lien in this Section provided for shall be subordinate to the mortgage of the Rental Mortgagee, the Declaration of Restrictive Covenants,

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the Regulatory and Operating Agreement and the lien of any first mortgage now or hereafter placed upon the Townhome Unit.

(e) The provisions in the Condominium Declaration shall apply with respect to the application of casualty insurance proceeds relating to Condominium Units.

10.04 **Notices.** All notices and other communications provided for in the Act, this Declaration or the By-Laws shall be in writing and effective three (3) business days after delivery: (i) by first class or certified mail, postage prepaid; (ii) by hand delivery or (iii) by courier service (including overnight courier service). Notices to the parties shall be directed as follows:

Board of Community Association:  
President, Drexel Blvd./42<sup>nd</sup> Street Community Association  
[unit address] [unit number]  
Chicago, Illinois 60653

Unit Owner and Occupant:  
[Name]  
[unit address] [unit number]  
Chicago, Illinois 60653

Receiver:  
The Habitat Company LLC, as Receiver for Chicago Housing Authority  
350 West Hubbard Street  
Chicago, Illinois 60610  
Attn: President

Copies of any notices to Unit Owners of the Public Housing Units to:

Chicago Housing Authority  
626 West Jackson Street  
Chicago, Illinois 60661  
Attn: Chief Executive Officer

and

Chicago Housing Authority  
200 West Adams Street, Suite 2100  
Chicago, Illinois 60606  
Attn: General Counsel

and

United States Department of Housing and Urban Development  
77 West Jackson Boulevard, 24<sup>th</sup> Floor  
Chicago, Illinois 60604  
Attn: Director, Public Housing

and

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United States Department of Housing and Urban Development  
451 7<sup>th</sup> Street S.W.  
Washington, DC 20410  
Attn: Public Housing Investments

and

City of Chicago  
Department of Law  
121 N. LaSalle Street  
Chicago, Illinois 60602  
Attn: Finance and Economic Property Division

and

Illinois Housing Development Authority  
401 N. Michigan Ave., Suite 900  
Chicago, IL 60611  
Attn: Director, Asset Management Department

Any Unit Owner may designate a different address or addresses for notices by giving notice of its change of address to the Board.

- 10.05 **Insurance.** The Community Association shall be responsible for payment of all insurance premiums, as required under the Act, for coverages relating to the Roadway Parcel, Roadway Parcel Improvements and any other property owned by the Community Association, which may include liability for property damage, worker's compensation, floods and other natural disasters, and directors and officers liability.
- 10.06 **Rights of CHA, City, Receiver and HUD.** In addition to any requirements or prerequisite provided for elsewhere in this Declaration, the consent of the CHA, the City, Receiver and HUD will be required for the following, as well as the consent of the First Mortgagee of the Units owning at least eighty percent (80%) of the votes in the Community Association, to the extent provided in the Regulatory and Operating Agreement:
- (a) Adoption of an Amendment to this Declaration which changes or adds to provisions of this Declaration relating to (i) voting rights; (ii) assessments, assessment liens, or the priority of assessment liens; (iii) reserves for maintenance, repair, and replacement of Commonly Maintained Areas; (iv) responsibility for maintenance and repairs of the Commonly Maintained Areas; (v) reallocation of interests in the Percentage Interests or rights to their use (other than following a taking by eminent domain pursuant to Section 10.02 or partial restoration provided in Article Ten) (no consent will be required under this Section 10.06 if reallocation of Percentage Interests is made pursuant to Article Eight hereof); (vi) redefinition of any Public Housing Rental Unit boundaries (other than following a taking by eminent domain pursuant to Section 10.02 or partial restoration provided in Article Ten); (vii) convertibility of Units into Commonly Maintained Areas or Commonly Maintained Areas into Units; (viii) insurance or fidelity bond requirements; (ix) leasing of Units; (x) imposition of any restrictions on an Owner's right to sell or transfer its Unit. However, such

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consent shall not be required for an Amendment made in accordance with Article Eight;

- (b) The partition or subdivision of a Public Housing Rental Unit;
- (c) The abandonment, partition, subdivision, encumbrance, sale or transfer of the Commonly Maintained Areas, (except (i) as the result of a taking by eminent domain; (ii) for the granting of easements for public utilities or for other purposes consistent with the intended use of the Development, and (iii) for the encumbrance, sale or transfer of a Percentage Interest in connection with the encumbrance, sale or transfer of a Unit);
- (d) The sale of the entire Development;
- (e) The removal of all or a portion of the Development from the provisions of the Act and this Declaration; or
- (f) The effectuation of a decision by the Community Association to terminate professional management and assume self-management of the condominium when professional management is in place.

Upon specific written request to the Community Association, each First Mortgagee, insurer or guarantor of a Unit shall be furnished notice in writing by the Community Association of any damage to or destruction or taking of the Commonly Maintained Areas if such damage or destruction or taking exceeds ten thousand dollars (\$10,000.00), or if damages shall occur to a Unit in excess of one thousand dollars (\$1,000.00), notice of such event shall also be given if any Unit or portion thereof or the Commonly Maintained Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the First Mortgagee, insurer or guarantor of said Unit will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition and no provisions of any document will entitle the owner of a Unit or other party to priority over such First Mortgagee with respect to the distribution to such Unit of the proceeds of any award or settlement.

10.07 **Enforcement.** Enforcement of these covenants and restrictions may be made by any proceeding at law or in equity against any Person or Persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages against any Person personally liable pursuant to the provisions hereof. The failure by the Community Association or any Unit Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The remedies given by the provisions hereof or by the By-Laws may be exercised cumulatively or independently. Any Unit Owner found to be in violation of any of these covenants shall be liable for all of the Community Association costs incurred for enforcement, including attorneys' fees.

10.08 **Severability.** Invalidation of any one or more of these covenants or restrictions, by judgment or court order, shall not affect any other provisions hereof which shall remain in full force and effect.

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- 10.09 **Consent.** If any consent is required under the provisions of this Declaration, a consent shall be deemed granted if such a request for consent includes a notice that such consent shall be deemed granted if the person or entity required to provide the consent fails to respond within such thirty (30) day period, and no response is received during such thirty (30) day period.
- 10.10 **Counterparts.** This Declaration may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- 10.11 **Exhibits.** The Exhibits attached hereto constitute a material part of this Declaration and are incorporated herein by reference.

(Remainder of page intentionally left blank)

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, the Declarant have executed this Declaration as of the day and year first above written.

DEVELOPER:

**JAZZ ON THE BOULEVARD, LLC,**  
a Delaware limited liability company

By: Thrush Drexel, Inc.,  
an Illinois corporation, its Managing Member

By: \_\_\_\_\_  
Name: David L. Chase  
Title: President

STATE OF ILLINOIS        )  
  )  
COUNTY OF C O O K     )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that David L. Chase, the President of Thrush Drexel, Inc., an Illinois corporation, Managing Member of Declarant, 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 act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 5<sup>th</sup> day of May, 2005.  
Benita Lopez  
Notary Public



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## CONSENT OF MORTGAGEE

Citibank, F.S.B., holder of a mortgage on the property dated August 1, 2004 and recorded August 12, 2004 as Document No. 0422501214 hereby consents to the execution and recording of the within said Declaration of Easements, Covenants and Restrictions and agrees that said mortgage is subject to the provisions of said Declaration and the Condominium Property Act of the State of Illinois.

IN WITNESS WHEREOF, the said Citibank, F.S.B. has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois, on this 20<sup>th</sup> day of April, 2005.

BY: Sonya Phear  
Title Vice President

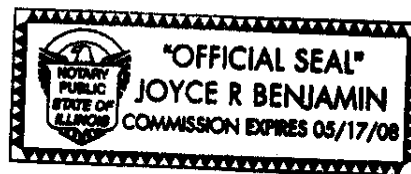
ATTEST:

Nathleen Schulz  
Title Assistant Vice President

STATE OF ILLINOIS )  
COUNTY OF COOK )

I, JOYCE R. BENJAMIN, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that SONYA PHEAR, the VICE PRESIDENT of Citibank, F.S.B., who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such \_\_\_\_\_, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as its own free and voluntary act and as the free and voluntary act of said \_\_\_\_\_ for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 20<sup>th</sup> day of APRIL, 2005  
Joyce R. Benjamin  
Notary Public



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## CONSENT OF MORTGAGEE

City of Chicago, a municipal corporation of the State of Illinois, holder of a mortgage on the property dated August 1, 2004 and recorded August 12, 2004 as Document No. 0422501220 hereby consents to the execution and recording of the within Declaration of Easements, Covenants and Restrictions and agrees that said mortgage is subject to the provisions of said Declaration and the Condominium Property Act of the State of Illinois.

IN WITNESS WHEREOF, the said City of Chicago has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois, on this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

BY: *[Signature]*  
Title \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Title

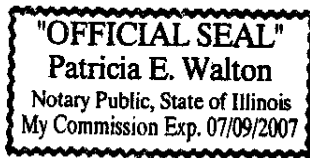
STATE OF ILLINOIS

COUNTY OF COOK

I, *Patricia E. Walton*, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that *John A. Markowski*, the ~~Commissioner of Housing~~ of the City of Chicago, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such *John A. Markowski* appeared before me this day in person and acknowledged that he signed and delivered the said instrument as its own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

*Patricia E. Walton*  
Notary Public





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## CONSENT OF MORTGAGEE

Chicago Housing Authority, an Illinois municipal corporation, holder of a mortgage on the property dated August 1, 2004 and recorded August 12, 2004 as Document No. 0422501216 hereby consents to the execution and recording of the within Declaration of Easements, Covenants and Restrictions and agrees that said mortgage is subject to the provisions of said Declaration and the Condominium Property Act of the State of Illinois.

IN WITNESS WHEREOF, the said Chicago Housing Authority has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois, on this 22nd day of April, 2005.

BY: [Signature]  
Title Chief Executive Officer

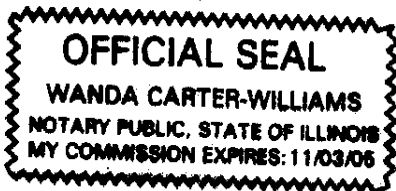
ATTEST  
[Signature]  
Title Executive Advisor to Board of Commissioners

STATE OF ILLINOIS )

COUNTY OF COOK )

I, Wanda Carter-Williams, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Terry Peterson, the Chief Executive Officer of the Chicago Housing Authority, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Chief Executive Officer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as its own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 25th day of April, 2005.  
[Signature]  
Notary Public



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## CONSENT OF MORTGAGEE

The Illinois Housing Development Authority, holder of mortgages on the property dated August 1, 2004 and recorded August 12, 2004 as Document Nos. 0422501218 and 0422501219 hereby consents to the execution and recording of the within Declaration of Easements, Covenants and Restrictions and agrees that said mortgages are subject to the provisions of said Declaration and the Condominium Property Act of the State of Illinois.

IN WITNESS WHEREOF, the said Illinois Housing Development Authority has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois, on this 13th day of April, 2005.

BY: Kelly King Dibble  
Executive Director RM

STATE OF ILLINOIS     )  
  )  
COUNTY OF COOK     )

I, Richard B. Muller, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Kelly King Dibble, the Executive Director of the Illinois Housing Development Authority, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Executive Director, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 13th day of April, 2005.

Richard B. Muller  
Notary Public



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## CONSENT

Daniel E. Levin and The Habitat Company LLC, an Illinois limited liability company, Receiver to the Chicago Housing Authority hereby consents to the execution and recording of the within Declaration of Easements, Covenants and Restrictions.

IN WITNESS WHEREOF, the said Chairman has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois, on this 22 day of April, 2005.

THE HABITAT COMPANY LLC,  
an Illinois limited liability company

~~By:~~  
Title: Chairman  
Name: Daniel E. Levin

[Signature]  
Daniel E. Levin

ATTEST:

Mikki Anderson - Development Manager  
Title

STATE OF ILLINOIS )

COUNTY OF COOK )

I, Rowena Birmann, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Daniel E. Levin, the Chairman of The Habitat Company LLC, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Chairman, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as its own free and voluntary act and as the free and voluntary act of said Chairman for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 22nd day of April, 2005.

[Signature]  
Notary Public



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## CONSENT

Chicago Housing Authority, an Illinois municipal corporation, as a party to the

- (i) Regulatory and Operating Agreement dated August 1, 2004 and recorded August 12, 2004 as Document No. 0422501210; and
- (ii) Declaration of Restrictive Covenants dated August 1, 2004 and recorded August 12, 2004 as Document No. 0422501208.

hereby consents to the execution and recording of the within Declaration of Easements, Covenants and Restrictions.

IN WITNESS WHEREOF, the said Chicago Housing Authority has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois, on this 22nd day of April, 2005.

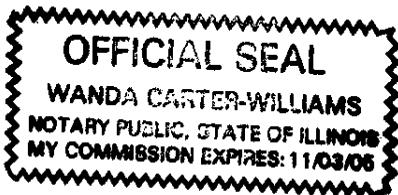
BY: [Signature]  
Title

ATTEST:  
[Signature]  
Title

STATE OF ILLINOIS     )  
  )  
COUNTY OF COOK     )

I, Wanda Carter-Williams, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Terry Peterson, the Chief Executive Officer of the Chicago Housing Authority, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Chief Executive Officer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as its own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 27th day of April, 2005.  
[Signature]  
Notary Public



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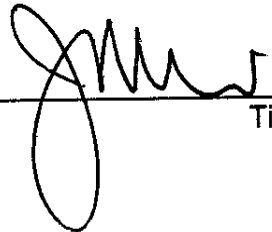
## CONSENT

The City of Chicago, an Illinois municipal corporation, as a party to the

- (i) Extended Use Agreement, City dated August 1, 2004 and recorded August 12, 2004 as Document No. 0422501211; and
- (ii) TIF Redevelopment Agreement, dated August 1, 2004 and recorded August 12, 2004 as Document No. 0422501212.

hereby consents to the execution and recording of the within Declaration of Easements, Covenants and Restrictions.

IN WITNESS WHEREOF, the said City of Chicago has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois, on this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

BY:   
 Title \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Title

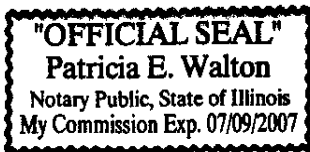
STATE OF ILLINOIS )

COUNTY OF COOK )

I, Patricia E. Walton, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that John G. Markowski, the ~~Commissioner of Housing~~ of the City of Chicago, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such ~~John G. Markowski~~, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as its own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Patricia E. Walton  
 Notary Public



# UNOFFICIAL COPY

## CONSENT

The Illinois Housing Development Authority, a body politic and corporate established pursuant to the Illinois Housing Development Act, 20 ILCS 3805/1 et seq., as a party to the Extended Use Agreement, IHDA dated August 1, 2004 and recorded August 12, 2004 as Document No. 0422501213 hereby consents to the execution and recording of the within Declaration of Leasehold Condominium Ownership.

IN WITNESS WHEREOF, the said Illinois Housing Development Authority has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois, on this 13<sup>th</sup> day of April, 2005.

BY: Kelly King Dibble  
Executive Director RM

STATE OF ILLINOIS )  
COUNTY OF COOK )

I, Richard B. Muller, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Kelly King Dibble, the Executive Director of the Illinois Housing Development Authority, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Executive Director, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 13<sup>th</sup> day of April, 2005.

Richard B. Muller  
Notary Public



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## EXHIBIT A

### LEGAL DESCRIPTION OF THE REAL ESTATE

Lots 16 to 24, both inclusive, (except that part taken for the widening and extension of a public alley) in Block 3 in Charles R. Steele's Resubdivision of Block 1 in Bayard and Palmer Addition to the Northwest fractional Quarter of Section 2, Township 38 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Commonly known as:

4162, 4164, 4168, 4174, 4176 and 4178 S. Drexel Boulevard  
835 East 42<sup>nd</sup> Street  
834 East 42<sup>nd</sup> Place

PINs:

Part of 20-02-112-012  
Part of 20-02-112-016  
(affects this and other property)

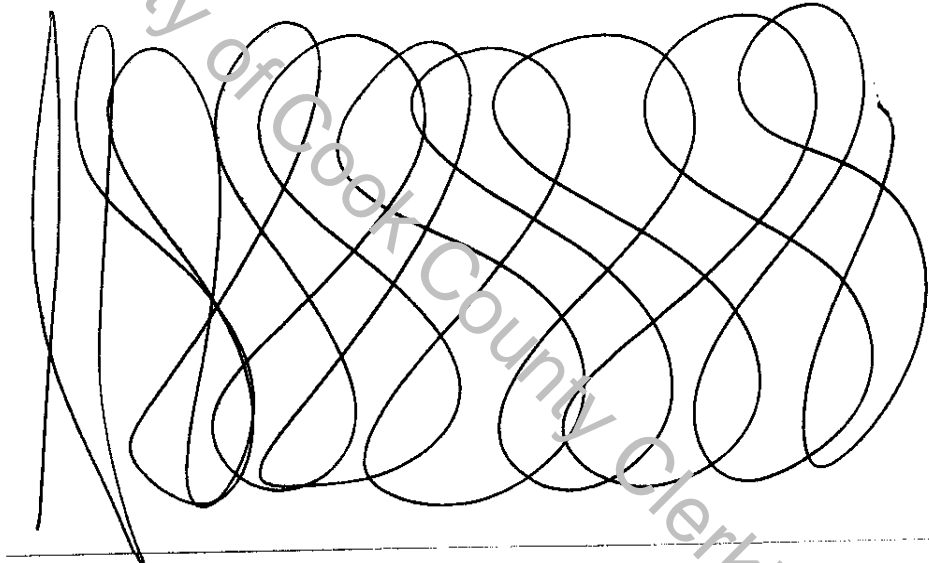
Property of Cook County Clerk's Office

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## EXHIBIT B

### PLAT OF SURVEY

Property of Cook County Clerk's Office





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## EXHIBIT C

### LEGAL DESCRIPTION OF CONDOMINIUM PARCEL

That part of Lots 16 to 24, both inclusive, (except that part taken for the widening and extension of a public alley) in Block 3 in Charles R. Steele's Resubdivision of Block 1 in Bayard and Palmer Addition to the Northwest fractional Quarter of Section 2, Township 38 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois, described as follows:

Beginning at the Northeast corner of said tract; thence South 03°44'15" East along the East line thereof, 187.11 feet to the South line of said tract; thence North 89°52'56" West along said South line, 80.20 feet; thence North 00°00'00" East 23.82 feet; thence Northerly and Easterly 7.85 feet along the arc of a circle convex to the Northwest, having a radius of 5.00 feet, and whose chord bears North 45°00'00" East, a distance of 7.07 feet; thence North 90°00'00" East 7.00 feet; thence North 00°00'00" East 128.33 feet; thence North 90°00'00" West 7.00 feet; thence Westerly and Northerly 7.85 feet along the arc of a circle convex to the Southwest, having a radius of 5.00 feet, and whose chord bears North 45°00'00" West, a distance of 7.07 feet; thence North 00°00'00" East 24.61 feet to a point on the North line of said tract; thence South 89°49'25" East along said North line, 68.00 feet to the point of beginning, in Cook County, Illinois, also, the following described parcel:

That part of Lots 16 to 24 in Block 3 in Charles R. Steele's Resubdivision of Block 1 in Bayard and Palmer Addition to the Northwest fractional Quarter of Section 2, Township 38 North, Range 14, East of the Third Principal Meridian, taken as a tract and described as follows: commencing at the Northeast corner of said tract; thence North 89°49'25" West along the North line thereof, 82.00 feet; thence South 00°00'00" West 49.82 feet to the point of beginning; thence South 90°00'00" East 8.00 feet; thence South 00°00'00" West 88.00 feet; thence North 90°00'00" West 8.00 feet; thence North 00°00'00" East 88.00 feet to the point of beginning, in Cook County, Illinois.

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## EXHIBIT D

### LEGAL DESCRIPTION OF TOWNHOME PARCEL

That part of Lots 16 to 24, both inclusive, (except that part taken for the widening and extension of a public alley) in Block 3 in Charles R. Steele's Resubdivision of Block 1 in Bayard and Palmer Addition to the Northwest fractional Quarter of Section 2, Township 38 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois, described as follows:

Commencing at the Northwest corner of said tract; thence South  $89^{\circ}49'25''$  East along the North line thereof, 41.00 feet to a point on the East line of a 16 foot Alley, said point being the point of beginning; thence South  $89^{\circ}49'25''$  East along the North line of said tract, 40.14 feet; thence South  $00^{\circ}00'00''$  East 186.79 feet to a point on the South line of said tract; thence North  $89^{\circ}52'56''$  West along said South line, 40.00 feet to a point on the East line of a 16 foot Alley, aforesaid; thence North  $00^{\circ}02'30''$  West along the East line of a 16 foot Alley, aforesaid, 186.83 feet to the point of beginning, in Cook County, Illinois.

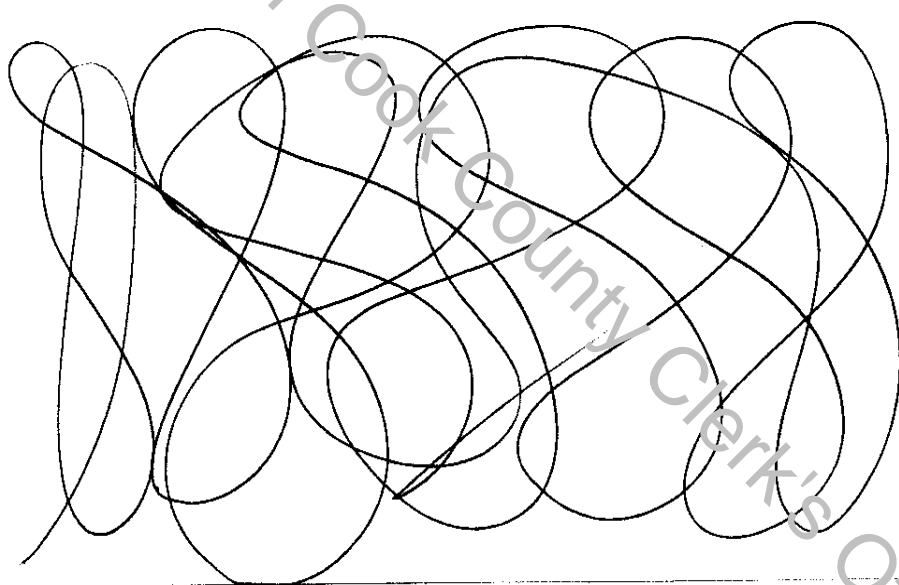
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## EXHIBIT E

### SITE PLAN

(SEE ATTACHED)

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## EXHIBIT F

### LEGAL DESCRIPTION OF ROADWAY PARCEL

That part of Lots 16 to 24, both inclusive; (except that part taken for the widening and extension of a public alley) in Block 3 in Charles R. Steele's Resubdivision of Block 1 in Bayard and Palmer Addition to the Northwest fractional Quarter of Section 2, Township 38 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois, described as follows:

Commencing at the North East corner of said tract; thence South 03°44'15" East along the East line thereof, 187.11 feet to the South line of said tract; thence North 89°52'56" West along the South line of said tract, 50.20 feet to the point of beginning; thence North 00°00'00" East 23.82 feet; thence Northerly and Easterly 7.85 feet along the arc of a circle convex to the Northwest, having a radius of 5.00 feet, and whose chord bears North 45°00'00" East, a distance of 7.07 feet; thence North 90°00'00" East 7.00 feet; thence North 00°00'00" East 128.33 feet; thence North 90°00'00" West 7.00 feet; thence Westerly and Northerly 7.85 feet along the arc of a circle convex to the Southwest, having a radius of 5.00 feet, and whose chord bears North 45°00'00" West, a distance of 7.07 feet; thence North 00°00'00" East 24.61 feet to a point on the North line of said tract; thence North 89°49'25" West along said North line, 32.50 feet; thence South 00°00'00" East 136.70 feet to a point on the South line of said tract; thence South 89°52'56" East along said South line, 32.50 feet to the point of beginning, in Cook County, Illinois, but excepting therefrom the following described parcel:

that part of Lots 16 to 24 in Block 3 in Charles R. Steele's Resubdivision of Block 1 in Bayard and Palmer Addition to the Northwest fractional Quarter of Section 2, Township 38 North, Range 14, East of the Third Principal Meridian, taken as a tract and described as follows: Commencing at the Northeast corner of said tract; thence North 89°49'25" West along the North line thereof, 82.00 feet; thence South 00°00'00" West 49.82 feet to the point of beginning; thence South 00°00'00" East 8.00 feet; thence South 00°00'00" West 88.00 feet; thence North 90°00'00" West 8.00 feet; thence North 00°00'00" East 88.00 feet to the point of beginning, in Cook County, Illinois.

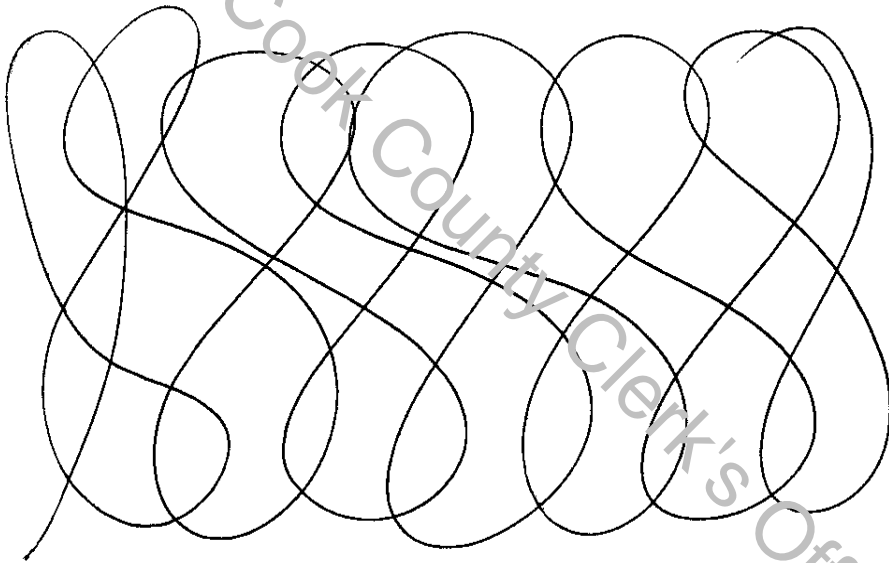
**UNOFFICIAL COPY****EXHIBIT G****PERCENTAGE INTERESTS**

<u>UNIT DESIGNATION</u>	<u>ADDRESS</u>	<u>SALEABLE SQUARE FEET</u>	<u>PERCENTAGE INTEREST</u>
835-1	835 E. 42nd St. Unit #1	2,180	15.2%
835-2	835 E. 42nd St. Unit #2	2,008	14.1%
835-3	835 E 42nd. St. Unit #3	2,008	14.1%
835-4	835 E. 42nd St. Unit #4	2,008	14.1%
834-3	834 E. 42nd Pl. Unit #3	2,008	14.1%
834-2	834 E. 42nd Pl. Unit #2	2,008	14.1%
834-1	834 E. 42nd Pl. Unit #1	2,049	14.3%
	<b>TOTAL</b>	<b>14,269</b>	<b>100.00%</b>

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**EXHIBIT H  
INTENTIONALLY DELETED**

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## EXHIBIT I

### BY-LAWS OF THE DREXEL BLVD./42<sup>ND</sup> STREET COMMUNITY ASSOCIATION

#### ARTICLE ONE Definitions

- 1.01 **Defined Terms.** Unless otherwise expressly defined in these By-Laws, all identified terms used in these By-Laws shall have the same meanings as such terms are given in the Declaration of Easements, Covenants and Restrictions for Drexel Blvd./42<sup>nd</sup> Street Community Association (the "Declaration"), which Declaration is recorded in the Office of the Recorder of Deeds of Cook County, Illinois.
- 1.02 **Definition of Principals.** The term "Principal" used in these By-Laws shall mean, with respect to any legal entity which is a Unit Owner, the natural person who is legally authorized to act on behalf of such legal entity.

#### ARTICLE TWO Unit Owners

##### 2.01 **Administration of The Community Association Prior To Election of The Board.**

- (a) Until the election by the Unit Owners of the Board, the same rights, titles, powers, privileges, trusts, duties and obligations that are vested in or imposed upon the Board by the Act or in the Declaration shall be held and performed by the Declarant or its designated initial Board, as provided in section 3.01 of these By-laws.
- (b) The election of the Board by the Unit Owners shall be held not later than sixty (60) days after the conveyance by the Declarant of seventy five percent (75%) of the Units, or three (3) years after the recording of the Declaration, whichever is earlier. The Declarant shall give at least twenty-one (21) days notice of the meeting to elect the Board and shall upon request provide to any Unit Owner, within three (3) working days of the request, the names, addresses, and weighted vote of each Unit Owner entitled to vote at the meeting. Any Unit Owner shall upon receipt of the request be provided with the same information, within ten (10) days of the request, with respect to each subsequent meeting to elect directors of the Board.
- (c) If the Board is not elected by the Unit Owners at the time established above, the Declarant shall continue in office for a period of thirty (30) days, whereupon written notice of its resignation shall be sent to all of the Unit Owners entitled to vote at an election for directors of the Board.
- (d) Within sixty (60) days following the election of a majority of the Board by the Unit Owners, the Declarant shall deliver to the Board:

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- i. All original documents as recorded or filed pertaining to the Development, these By-Laws, its administration, and the Community Association, such as the Declaration, articles of incorporation, other instruments, annual reports, minutes, rules and regulations, and contracts, leases, or other agreements entered into by the Declarant on behalf of the Community Association. If any original documents are unavailable, a copy may be provided if certified by affidavit of the Declarant, or an officer or agent of the Declarant, as being a complete copy of the actual document recorded or filed.
  - ii. A detailed accounting by the Declarant, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance and operation of the Development, copies of all insurance policies, and a list of any loans or advances to the Community Association which are outstanding.
  - iii. Community Association funds, which shall have been at all times segregated from any other moneys of the Declarant.
  - iv. A schedule of all real or personal property, equipment and fixtures belonging to the Community Association, including documents transferring the Development, warranties, if any, for all real and personal property and equipment, deeds, title insurance policies and all tax bills.
  - v. A list of all litigation, administrative action and arbitrations involving the Community Association, any notices of governmental bodies involving actions taken or which may be taken concerning the Community Association, engineering and architectural drawings and specifications as approved by any governmental authority, all other documents filed with any other governmental authority, all governmental certificates, correspondence involving enforcement of any Community Association requirements, copies of any documents relating to disputes involving Unit Owners, and originals of all documents relating to everything listed in this subsection.
  - vi. If the Declarant fails to fully comply with this subsection (d) within the sixty (60) days provided and fails to fully comply within ten (10) days of written demand mailed by registered or certified mail to its last known address, the Board may bring an action to compel compliance with this subsection (d). If the court finds that any of the required deliveries were not made within the required period, the Board shall be entitled to recover its reasonable attorneys' fees and costs incurred from and after the date of expiration of the ten (10) day demand.
- e. Any contract, lease or other agreement made prior to the election of a majority of the Board other than the Declarant by or on behalf of the Community Association or the Board which extends for a period of more than two (2) years from the recording of the Declaration, shall be subject to cancellation by more than one-



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half (1/2) of the votes of the Unit Owners, other than the Declarant, cast at a special meeting of Unit Owners called for that purpose during a period of ninety (90) days prior to the expiration of the two (2) year period if the Board is elected by the Unit Owners, otherwise by more than one-half (1/2) of the underlying condominium board of managers. At least sixty (60) days prior to the expiration of the two (2) year period, the Board, or, if the Board is still under Declarant's control, then the Board or the Declarant shall send notice to every Unit Owner or underlying condominium board of managers, notifying them of this provision, of what contracts, leases and other agreements are affected, and of the procedure for calling a meeting of the Unit Owners or for action by the underlying condominium board of managers for the purpose of acting to terminate such contracts, leases or other agreements. During the ninety (90) day period the other party to the contract, lease, or other agreement shall also have the right of cancellation.

- f. The statute of limitations for any actions in law or in equity which the Community Association may bring shall not begin to run until the Unit Owners have elected a majority of the directors of the Board.

- 2.02 **Eligibility.** The members of Drexel Blvd./42<sup>nd</sup> Street Community Association, an Illinois not-for-profit corporation, shall consist of Unit Owners of a Unit in accordance with the respective Percentage Interests assigned to such Units as set forth on Exhibit G, as amended from time to time. The Community Association shall have one class of membership and nothing contained in the Declaration or these By-Laws shall permit or allow different classes of membership among the Unit Owners.
- 2.03 **Succession.** The membership of each Unit Owner in the Community Association shall terminate upon the sale, transfer or other disposition of its ownership in the Unit. Upon either such disposition, such membership in the Community Association shall automatically be transferred to the Unit Owner succeeding to such Unit Ownership.
- 2.04 **Regular Meetings.** The initial meeting of Unit Owners shall be held at the Development or at such other place within one (1) mile of the Development, as may be specified in the notice of the meeting, as specified in Section 2.01 hereof. Thereafter, there shall be an annual meeting of the Unit Owners on the second Tuesday of September following such initial meeting and on the second Tuesday of September of each succeeding year thereafter, at 7:30 p.m., or at such other reasonable time or date as may be designated by written notice of the Board delivered to the Unit Owners not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting. Notwithstanding anything to the contrary contained herein, if the initial meeting of the Unit Owners shall take place within sixty (60) days prior to the second Tuesday of September, then the initial meeting shall also be deemed to be the first annual meeting of Unit Owners and the initial Board shall serve in such capacity until the second annual meeting of the Unit Owners.
- 2.05 **Special Meetings.** Special meetings of the Unit Owners may be called by the President or by a majority of the directors of the Board, or by Unit Owners having at least twenty-five percent (25%) of the votes entitled to be cast at such meeting. Said special meetings shall be called by delivering written notice to all Unit Owners not less than ten (10) days and not more than thirty (30) days prior to the date of said meeting,

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stating the date, time and place of said special meeting and the matters to be considered. Matters to be submitted at special meetings of the Unit Owners shall first be submitted to the Board at least ten (10) days prior to the special meeting, which shall then submit the matters to the Unit Owners.

- 2.06 **Notice of Meetings.** Except as otherwise provided herein, notices of meetings shall be mailed to a Unit Owner at the address given to the Board by said Unit Owner for such purpose, or to the Unit Owner's Unit, if no address for such purpose has been given to the Board, provided that any such notice shall be delivered not less than ten (10) days and no more than thirty (30) days prior to the date fixed for such meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.
- 2.07 **Voting Rights.** There shall be one person with respect to each Unit who shall be entitled to vote at any meeting of the Unit Owners. Such person shall be known (and hereinafter referred to) as a "voting member." A voting member may be a natural person which is a Unit Owner or joint owner of a Unit or a Principal acting on behalf of a Unit Owner or some person designated by a Unit Owner to act as proxy on the Unit Owner's behalf and who need not be a Unit Owner or a Principal. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board of (a) the death or judicially declared incompetence of any Unit Owner or any beneficiary of a land trust which is a Unit Owner, (b) the dissolution of any corporation which is a Unit Owner or the sole beneficiary of a land trust which is a Unit Owner, (c) the termination of any legal entity which is a Unit Owner or the sole beneficiary of a land trust which is a Unit Owner, or (d) by written notice to the Board by the Unit Owner. The proxy shall be invalid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy and every proxy must bear the date of execution.

Any or all Unit Owners or Principals may be present at any meeting of the voting members and (those constituting a group acting as a single voting member) may vote or take any other action as a voting member either in person or by proxy. The total number of votes of all voting members shall be one hundred (100), and each Unit Owner or group of Unit Owners shall be entitled to the number of votes equal to the total of its Percentage Interest as set forth in Exhibit G. The person designated by the Declarant shall be the voting member with respect to any Unit owned by the Declarant. At any time after the election of the Board, in the event that thirty percent (30%) or less of the total number of Units control in excess of fifty percent (50%) of the total votes of the Community Association, any provision herein which requires a vote by Unit Owners holding a certain percentage of the total vote shall require, in lieu thereof, that the percentage required be based on the number of Units rather than the percentage of votes allocable to Units pursuant to their respective Percentage Interest. The Community Association may, upon adoption of the appropriate rules by the Board, conduct elections by secret ballot whereby the voting ballot is marked only with the Percentage Interest for the Unit and the vote itself, provided that the Board further adopt rules to verify the status of the Unit Owner issuing a proxy or casting a ballot; and further, that 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.

In the event of a resale of a Unit, the purchaser of a Unit from a seller other than the Declarant pursuant to an installment contract for purchase shall, during such times as it resides in the Unit, be counted toward a quorum for purposes of election of the directors

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to the Board at any meeting of the Unit Owners called for purposes of electing directors to the Board, shall have the right to vote for the election of directors 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 Community Association or its agents. For purposes of this Section, "installment contract" shall have the same meaning as set forth in Section 1 (e) of "An Act relating to installment contracts to sell dwelling structures", approved August 11, 1967, as amended.

- 2.08 **Quorum.** The presence of voting members in person or by proxy at any meeting of the Unit Owners having eighty percent (80%) of the total votes shall constitute a quorum unless the Unit Owners holding a majority of the Percentage Interests provide for a higher percentage. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Unit Owners at which a quorum is present upon the affirmative vote of Unit Owners having a majority of the total votes represented at such meeting; provided, however, that the following matters shall require the approval of voting members having not less than seventy-five percent (75%) of the total votes: (i) the merger or consolidation of the Community Association; (ii) the sale, lease, exchange, or other disposition (excluding the mortgage or pledge) of all, or substantially all of the property and assets of the Community Association; (iii) the purchase or sale of land or of Units on behalf of all Unit Owners; and (iv) the removal of the Development from the provisions of the Act.

## ARTICLE THREE Board of Directors

- 3.01 **Number, Election and Term of Office.** The initial Board designated by the Declarant pursuant to the Declaration shall consist of three (3) directors who shall serve without compensation. Such initial Board shall serve for a period commencing on the date the Declaration is executed and ending upon the qualification of the directors elected at the initial meeting of Unit Owners held as provided in Section 2.01 hereof. Said initial Board may, on behalf of the Declarant, exercise the rights reserved in Section 3.10 hereof. At the initial meeting of the Unit Owners, the Unit Owners shall elect the Board consisting of three (3) directors. In all elections for directors of the Board, each Unit Owner shall be entitled to vote on a cumulative voting basis. Each Unit Owner voting at an election of the Board shall have the right to as many votes as shall equal the number of directors to be elected, multiplied by the Percentage Interest owned by the Unit Owner. Each such Unit Owners may either give all of those votes, so computed, to one candidate, or may distribute those votes among any number of candidates. The candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Directors of the Board elected at the initial meeting shall serve until the first annual meeting. At the first annual meeting, three (3) Board of directors shall be elected. Directors of the Board shall be elected for a term of one (1) year each. The election and term of office as between candidates receiving the same number of votes shall be determined by lot. Board of directors are permitted to succeed themselves in office. Unit Owners having at least three-fourths (3/4) of the total votes may from time to time increase or decrease such number of directors on the Board or may decrease the term of office of Board of directors at any annual or special

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meeting, provided that such number shall not be less than three (3) and that the terms of at least one-half (1/2) of the directors on the Board shall expire annually.

- 3.02 **Qualification.** Except for the initial Board, each director shall be a Unit Owner or a Principal of a Unit Owner. If a director shall cease to meet such qualifications during its term, he shall thereupon cease to be a director and his place on the Board shall be deemed vacant.
- 3.03 **Vacancies.** Vacancies on the Board shall be filled by the existing Board members by two-thirds (2/3) vote of such Board members until the next annual meeting of Unit Owners or at a meeting of the Unit Owners (called for the purpose of filling a vacancy on the Board), but no later than thirty (30) days following the filing of a petition signed by Unit Owners having at least twenty percent (20%) of the Percentage Interests requesting such a meeting. Vacancies among the officers shall be filled by the members of the Board for the unexpired portion of the term.
- 3.04 **Meetings.** The Board shall meet at least four (4) times annually, one of the meetings to be held immediately following the regular annual meeting of the Unit Owners. Meetings of the Board shall be held upon a call by the President or by a majority of the Board on not less than seventy-two (72) hours notice in writing to each director, delivered personally or by mail or telegram. Any director may waive notice of the meeting or consent to the holding of a meeting without notice, or consent to any action of the Board without a meeting. A director's attendance at a meeting shall constitute its waiver of notice of said meeting.
- 3.05 **Special Meetings.** Special meetings of the Board may be called by the President or by directors of the Board having at least twenty-five percent (25%) of the votes entitled to be cast at such meeting. Said special meetings shall comply with all other provisions herein.
- 3.06 **Attendance By Unit Owners.** All meetings of the Board shall be open to attendance by any Unit Owner or Principal, subject to the authority of the Board, except for the portion of any meeting:
- (a) to discuss litigation when an action against or on behalf of the Community 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;
  - (b) to consider information regarding appointment, employment or dismissal of an employee; or
  - (c) to discuss violations of rules and regulations of the Community Association or a Unit Owner's unpaid Common Expenses owed to the Community Association.

Any vote on the above matters shall be taken at a meeting or portion thereof open to any Unit Owner, subject to the authority of the Community Association. Any Unit Owner may record the proceedings at meetings required to be open by the Act or these By-Laws by tape, film, or other means, subject to reasonable rules and regulations prescribed by the Board to govern the right to make such recordings. Notices of Board meetings shall be mailed or delivered not later than forty-eight (48) hours prior to such meeting unless a written waiver of such notice is signed by the Unit Owners entitled to

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such notice prior to the convening of such meeting. Copies of notices of meetings of the Board shall be posted in entranceways, elevators, or other conspicuous places in the Units and condominium building at least forty-eight (48) hours prior to the meeting of the Board. Where there is no common entranceway for seven (7) or more Units, the Board will designate one or more locations in the proximity of these Units and condominium building where the notices of meetings shall be posted.

- 3.07 **Removal.** Except for directors designated by the Declarant, any director may be removed from office, with or without cause, by the vote of Unit Owners having at least seventy-five percent (75%) of the Percentage Interests represented at any special meeting called for that purpose. A successor to fill the unexpired term of a director may be elected by the Unit Owners at the same meeting or any subsequent annual meeting or at a special meeting called for that purpose.
- 3.08 **Compensation.** Directors shall receive no compensation for their services unless expressly provided for in a resolution duly adopted at any annual or special meeting of the Unit Owners.
- 3.09 **Quorum.** A majority of the directors of the Board shall constitute a quorum at any meeting. The Board shall act at meetings by majority vote of the quorum.
- 3.10 **Records.** The Board shall maintain the following records of the Community Association and make them available for examination and copying at convenient hours on weekdays by any Unit Owner or Unit Owner's mortgagees, duly authorized agents or attorneys, subject to the authority of the Board:
- (a) Copies of the recorded Declaration, other Community Association instruments, other duly recorded covenants and these By-Laws and any amendments, articles of incorporation of the Community Association, annual reports and any rules and regulations adopted by the Community Association or the Board. Prior to the organization of the Community Association, the Declarant shall maintain and make available the records set forth in this subsection 3.10(a) for examination and copying.
  - (b) Detailed and accurate records in chronological order of the receipts and expenditures affecting the Development, specifying and itemizing the maintenance and repair expenses of the Development and any other expenses incurred, and copies of all contracts, leases, or other agreements entered into by the Community Association, shall be maintained.
  - (c) Detailed books and records of account for the Community Association's current and ten (10) immediately preceding fiscal years, including but not limited to itemized and detailed records of all receipts and expenditures.
  - (d) The minutes of all meetings of the Community Association and the Board shall be maintained for not less than seven (7) years.
  - (e) Ballots and proxies related thereto, if any, for any election held for the Board and for any other matters voted on by the Unit Owners shall be maintained for not less than one (1) year.

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- (f) Such other records of the Community Association as are available for inspection by members of a not-for-profit corporation pursuant to Section 107.75 of the General Not For Profit Corporation Act of 1986 shall be maintained.
- (g) With respect to Units owned by a land trust, if a trustee designates in writing a person to cast votes on behalf of the Unit Owner, the designation shall remain in effect until a subsequent document is filed with the Community Association.
- (h) Where a request for records under this subsection is made in writing to the Board or its agent, failure to provide the requested record or to respond within thirty (30) days shall be deemed a denial by the Board. A reasonable fee may be charged by the Board for the cost of copying. If the Board fails to provide records properly requested under this Section within the time period provided herein, the Unit Owner may seek appropriate relief, including an award of attorney's fees and costs.

### 3.11 **Powers and Duties.** The Board shall have the following general powers and duties:

- (a) to elect and remove the officers of the Community Association as hereinafter provided;
- (b) to administer the affairs of the Community Association;
- (c) to maintain the environmental barrier described in Section 7.01 of the Declaration;
- (d) at its option, to engage the services of a manager or managing agent to maintain, repair, replace, administer and operate the Development, or any part thereof, for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve; provided, however, that any agreement for professional management shall provide for termination for cause by the Board upon thirty (30) days written notice thereof and shall have a term not to exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods;
- (e) to formulate policies for the administration, management and operation of the Development;
- (f) to adopt rules and regulations with written notice thereof to all Unit Owners, governing the administration, management, operation, use, conservation and beautification of the Development and for the health, comfort, safety and general welfare of the Unit Owners;
- (g) to pay for any other materials, supplies, utilities, furniture, equipment, labor, services, maintenance, repairs or structural alterations which the Board is required to secure or pay for, pursuant to the terms of the Declaration and these By-Laws or which in its opinion shall be necessary or proper for the maintenance and operation of the Development;
- (h) to the extent provided in the Declaration, to maintain, repair and replace any part of the Development if such maintenance or repair is necessary, in the discretion

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of the Board, to protect the Development, or any other portion of the Units or condominium buildings;

- (i) to provide the services on behalf of all Unit Owners as provided for in the Declaration;
- (j) to employ the services of any person or firm to act on behalf of the Unit Owners in connection with real estate taxes and special assessments on the Development, and in connection with any other matter where the respective interests of the Unit Owners are deemed by the Board to be similar and not adverse to each other, the cost of such services to be a Common Expense;
- (k) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Development, and to delegate such powers to the manager or managing agent (and any such employees or other personnel who may be employees of the managing agent);
- (l) to pay for water, snow removal, waste removal, electricity, gas, telephone and other necessary utility services for the operation of the Roadway Parcel, Commonly Maintained Areas and Common Service Improvements;
- (m) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;
- (n) to estimate the amount of the Annual Budget and to provide the manner of assessing and collecting from the Unit Owners their respective shares of such estimated expenses as hereinafter provided;
- (o) unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Unit Owners, as expressed in the resolution duly adopted at any annual or special meeting of the Unit Owners;
- (p) to settle all disputes and act in a representative capacity in relation with Unit Owners with regard to the Development, including the Roadway Parcel, Perimeter Parkway Improvements and Common Service Improvements;
- (q) upon reasonable notice, the Board or its agents, may, between the hours of 8:00 a.m. and 6:00 p.m., or at any time if an emergency condition exists, enter any Residential Property (other than the interior of any Unit) when necessary in connection with any maintenance or construction for which the Board is responsible. Access to the interior of a Unit is subject to reasonable notice and the prior consent of the Unit Owner, unless the Board must undertake emergency repairs as may be necessary to prevent damage to the Development or to any adjoining Residential Property; and
- (r) to exercise all other powers and duties of the Board as referred to in the Act, the Declaration or these By-Laws.

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- 3.12 **Limitations.** The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of reserves any structural alterations, capital additions to, or capital improvements of the Development (other than for purposes of replacing or restoring portions of the Development, subject to all the provisions of the Declaration or unless required for emergency repair, protection or operation of the Development) if the improvement results in a proposed expenditure exceeding fifteen percent (15%) of the Annual Budget. The Board, upon written petition by Unit Owners with twenty percent (20%) of the votes of the Community Association delivered to the Board within fourteen (14) days of the Board action to approve the expenditure, shall call a meeting of the Unit Owners within thirty (30) days of the date of delivery of the petition to consider the expenditure. Unless a majority of the total votes of the Unit Owners are cast at the meeting to reject the expenditure, it shall be ratified.
- 3.13 **Litigation.** No judicial or administrative proceedings shall be commenced or prosecuted by the Community Association without first holding a special meeting of the Unit Owners and obtaining the affirmative vote of the Unit Owners representing at least seventy-five percent (75%) of the total votes represented by all Unit Owners to the commencement and prosecution of the proposed action. This Section shall not apply to (a) actions brought by the Community Association to enforce the provisions of the Declaration, the By-Laws or rules and regulations adopted by the Board (including, without limitation, an action to recover unpaid assessments or other charges or to foreclose a lien for unpaid assessments or other charges) or (b) counterclaim brought by the Community Association in proceedings instituted against it.
- 3.14 **Agreement.** 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 President or Secretary and countersigned by the Treasurer of the Board. The managing agent of the Community Association, if any, may be authorized to execute those documents required to enable it to perform its duties under its management agreement.
- 3.15 **Non-Delegation.** Nothing in this Article or elsewhere in these By-Laws shall be considered to grant to the Board or to the officers of the Community Association any powers or duties which, by law, have been designated to the Unit Owners.

## ARTICLE FOUR Officers

- 4.01 **Designation.** At each regular annual meeting, the directors present at said meeting shall elect the following officers of the Community Association by a majority vote:
- (a) a President, who shall be a director and who shall preside over the meetings of the Board and of the Unit Owners, and who shall be the chief executive officer of the Board and the Community Association and who shall be designated to mail and receive all notices and execute all amendments as provided in the Declaration, these By-Laws or the Act;



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- (b) a Secretary, who shall be a director and who shall keep the minutes of all meetings of the Board and of the Unit Owners and who shall, in general, perform all the duties incident to the office of Secretary; and
- (c) a Treasurer, who shall be a director and who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported.
- 4.02 **Powers.** The respective officers shall have the general powers usually vested in such officers, provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.
- 4.03 **Term of Office.** Each officer shall hold office for a term of one (1) year and until its successor shall have been appointed or elected and qualified. Officers are permitted to succeed themselves in office.
- 4.04 **Vacancies.** Vacancies in any office shall be filled by the Board by a majority vote of the remaining directors thereof at a special meeting of said Board. Any director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by a majority of the Board at a special meeting thereof.
- 4.05 **Compensation.** The officers shall receive no compensation for their services, unless expressly provided for in a resolution duly adopted at any annual or special meeting of the Unit Owners.
- 4.06 **Liability of The Board and Officers of The Community Association.**
- (a) Neither the directors of the Board nor the officers of the Community Association shall be liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Board of director and officers, except for any acts or omissions finally adjudged by a court to constitute gross negligence or fraud. The Unit Owners (including the directors of the Board and the officers of the Community Association in their capacity as Unit Owners) shall indemnify and hold harmless each of the directors of the Board and each of the officers of the Community Association against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board and officers of the Community Association on behalf of the Unit Owners or arising out of their status as Board of directors or officers of the Community Association to the fullest extent permitted under 805 ILCS 105/108.75(a) and (b), the contemplated indemnifications of which are incorporated herein by reference, unless any such contract or act shall have been finally adjudged by a court to have been made fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, attorney fees, amounts of judgments paid and amounts paid or received in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, in which any member of the Board or officers of the Community Association may be involved by virtue of such persons being or having been such member or officer; provided, however, that such

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indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for acting in bad faith or without a reasonable belief that the action in question was in or not opposed to the best interests of the Community Association of its duties as such director or officer, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, such persons were acting in bad faith or without a reasonable belief that the action in question was in or not opposed to the best interests of the Community Association. It is also intended that the liability of any Unit Owner arising out of any contract made by or other acts of the Board or officers of the Community Association, or out of the aforesaid indemnity in favor of the directors of the Board or officers of the Community Association, shall be limited to such proportion of the total liability hereunder as its Percentage Interest bears to the total Percentage Interest of all the Unit Owners. Every agreement made by the Board on behalf of the Unit Owners shall be deemed to provide that the directors of the Board are acting only as agents for the Unit Owners, and shall have no personal liability thereunder (except as Unit Owners) and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as its Percentage Interest bears to the total Percentage Interest of all Unit Owners.

- (b) The Community Association shall obtain and maintain fidelity insurance covering persons who control or disburse funds of the Community Association in an amount not less than the amount of any funds in the custody or control of the Community Association plus the Community Association's reserve fund. All management companies which are responsible for the funds held or administered by the Community Association shall maintain and furnish to the Community Association a fidelity bond in an amount not less than the amount of any funds in the custody of the management company at any time. The Community Association shall bear the cost of the fidelity insurance and fidelity bond, unless otherwise provided by contract between the Community Association and the management company. The Community Association shall be the direct obligee of any such fidelity bond. The management company holding reserve funds of the Community Association shall at all times maintain a separate account for each association, provided, however, that for investment purposes, the Board may authorize the management company to maintain the Community Association's reserve funds in a single interest bearing account with similar funds of other associations. The management company shall at all times maintain records identifying all moneys of each association in such investment account. The management company may hold all operating funds of associations which it manages in a single operating account but shall at all times maintain records identifying all moneys of each association in such operating account. Such operating and reserve funds held by the management company for the Community Association shall not be subject to attachment by any creditor of the management company.

## **ARTICLE FIVE** **Assessments**

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5.01

**Annual Budget.** Each year on or before December 1st, the Board shall cause to be prepared an estimated Annual Budget for the ensuing calendar year. Such Annual Budget shall take into account the estimated Common Expenses and cash requirements for the year, including but not limited to such things as salaries, wages, payroll taxes, legal and accounting fees, supplies, materials, parts, services, maintenance, repairs, landscaping, insurance, fuel, power and all other Common Expenses, as deemed necessary by the Board together with a reasonable amount considered by the Board to be necessary for a reserve for capital expenditures and deferred maintenance for repair or replacement of the Roadway Parcel and Common Service Improvements. To determine the amount of reserves, the Board shall take into consideration the following: (i) the repair and replacement cost, and the estimated useful life of the Roadway Parcel and Common Service Improvements; (ii) the current and anticipated return on investment of Community Association funds; (iii) any independent professional reserve study which the Community Association may obtain; (iv) the financial impact on Unit Owners, and on the market value of the Residential Property, of any assessment increase needed to fund reserves; and (v) the ability of the Community Association to obtain financing or refinancing. The Annual Budget shall also take into account the estimated net available cash income for the year from the operation or use of the Roadway Parcel and Common Service Improvements, if any. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account.

A copy of the estimated Annual Budget for each fiscal year shall be furnished to each Unit Owner on or before December 1st of each year; provided, however, that such estimated Annual Budget shall be furnished to each Unit Owner no less than ten (10) days and nor more than thirty (30) days prior to the annual meeting of the Board. The estimated Annual Budget shall indicate which portions thereof are intended for reserves, capital expenditures or repairs and payment of real estate taxes. In the event that an adopted Annual Budget or any special assessment would result in the aggregate regular and special assessments payable in any fiscal or calendar year exceeding by one hundred fifteen (115%) percent or more the regular and special assessments payable during the preceding year, the Board, upon written petition by Unit Owners having at least twenty (20%) percent of the Percentage Interests and delivered within fourteen (14) days after the Board action adopting said Annual Budget, shall call a meeting of the Unit Owners to consider the budget or special assessment, which meeting shall be held within thirty (30) days of the date of delivery of said petition. Upon failure of Unit Owners having at least seventy-five percent (75%) of Percentage Interests to vote at such meeting to reject the Annual Budget or special assessment, the Annual Budget or assessment shall be deemed ratified. Notwithstanding the foregoing, any special assessment for expenditures relating to emergencies as defined in the Act may be adopted by the Board without reference to the foregoing provisions. Any Common Expense not set forth in the Annual Budget or any increase in assessments over the amount adopted in the Annual Budget shall be separately assessed against all Unit Owners. Assessments for additions and alterations to the Roadway Parcel or to property owned by the Community Association not included in the regular Annual Budget shall be separately assessed and such assessments shall require the approval of Unit Owners having at least seventy-five (75%) percent of the Percentage Interests. If the Board deems it appropriate, the Board may adopt special assessments payable over more than one fiscal year. With

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respect to such multi-year assessments, the entire amount thereof shall be deemed authorized in the first fiscal year in which such assessment is approved.

- 5.02 **Assessments.** On or before January 1st of the ensuing year and the first of each succeeding month of said year, each Unit Owner shall pay, as its respective monthly assessment for the Common Expenses, one-twelfth (1/12) of its proportionate share of the Common Expenses for such year as shown by the Annual Budget. Such proportionate share for each Unit Owner shall be in accordance with the provisions of Article Seven of the Declaration. In the event that the Board shall not approve an estimated Annual Budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of its respective monthly assessment as last determined. Each Unit Owner shall pay its monthly assessment on or before the first day of each month to the Community Association or as may be otherwise directed by the Board. The Community Association shall have no authority to forbear the payment of assessments by any Unit Owner.
- 5.03 **Initial Budget.** The initial Board appointed by the Declarant shall determine and adopt, prior to the conveyance of the first Unit hereunder, the "estimated budget" for the initial period commencing with the first day of the month in which the sale of the first Unit is closed and ending on December 31st of the calendar year in which such sale occurs and shall continue to determine the "estimated budget" for each succeeding calendar year until such time as the first Board elected hereunder takes office. Assessments shall be levied against the Unit Owners during said periods as provided in Section 5.02 of this Article.
- 5.04 **Annual Reports.** On or before April 1st of each calendar year, the Board shall furnish each Unit Owner an itemized accounting of the Common Expenses for the preceding calendar year actually incurred and paid, together with an indication of which portions were for reserves, capital expenditures or repairs or payment of real estate taxes and with a tabulation of the amounts of any income collected pursuant to the assessments or otherwise for the preceding year, and showing the net excess or deficit of income over expenditures plus reserves; and such other information as the Board may deem desirable. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each Unit Owner's Percentage Interest to the installments due in the succeeding six (6) months after rendering of the accounting. Audited financial statements may be obtained by the Board at its option, the cost of which will be a Common Expense.
- 5.05 **Reserve For Contingencies and Replacements-Supplemental Budget.** The Board shall build up and maintain a reasonable reserve for contingencies and replacements, which reserve shall be segregated and allocated for specific purposes. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against such portions of the contingency and replacement reserve which remains unallocated. If the "estimated budget" proves inadequate for any reason or in the event a non-recurring Common Expense is anticipated for any year, then the Board may prepare and approve a supplemental budget covering the estimated deficiency or non-recurring expense for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a separate assessment shall be made to each Unit

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Owner for its proportionate share of such supplemental budget. All Unit Owners shall be personally liable for and obligated to pay their respective adjusted monthly amount.

- 5.06 **Failure To Prepare Annual Budget.** The failure of the Board to prepare or distribute, or a delay by the Board in preparing or distributing, the Annual Budget or any necessary adjustments thereto to the Unit Owners shall not constitute a waiver or release in any manner of such Unit Owner's obligation to pay its assessments as herein provided whenever the same shall be determined. In the absence of any Annual Budget or necessary adjustments thereto, each Unit Owner shall continue to pay its monthly assessments at the existing monthly rate established for the previous period until the Unit Owner is sent notice of said new annual or adjusted monthly assessment. Said Unit Owner shall commence paying said new assessment as of the due date of the new monthly assessment as set forth in a written notice of such new assessment mailed or delivered to each Unit Owner.
- 5.07 **User Charges.** The Board or the Declarant may establish, and each Unit Owner shall pay, user charges to defray the expense of providing services, facilities, or benefits which may not be used equally or proportionately by all of the Unit Owners or which, in the judgment of the Board, should not be charged to every Unit Owner. Such expense may include such services and facilities provided to Unit Owners which the Board determined should not be allocated among all of the Unit Owners in the same manner as the Common Expenses. Such user charges may be billed separately to each Unit Owner benefited thereby, or may be added to such Unit Owner's share of the Common Expenses, as otherwise determined, and collected as a part thereof. Nothing herein shall require the establishment of user charges pursuant to this Section 5.07, and the Board or the Declarant may elect to treat all or any portion thereof as Common Expenses.
- 5.08 **Liens.** Assessments levied by the Community Association, and any charges against specific Unit Owners pursuant to Section 5.07 above, shall give rise to and constitute a lien against the interest of any Unit Owner and in the Unit Owner's interest in any Unit owned by such Unit Owner or any part thereof, until said lien is paid in full, provided, however, that such lien shall be subordinate to the mortgage of the Rental Mortgagee, Declaration of Restrictive Covenants, the Regulatory and Operating Agreement and the lien of any recorded first mortgage or trust deed on the interest of such Unit Owner, owned or held by a bank, insurance company, savings and loan association, or other lender, and any prior recorded second mortgage in favor of the City encumbering an Affordable For-Sale Unit, except for the amount of the assessments which become due and payable from and after the date on which the said mortgage or trust deed owner or holder either takes possession of the Unit, accepts a conveyance of any interest therein (other than as security), or causes a receiver to be appointed. The Board shall have the power, after notice and an opportunity to be heard, to levy and collect reasonable fines from Unit Owners for violations of the Declaration, these By-Laws, and rules and regulations of the Community Association. Nothing contained in this subsection shall give rise to a statutory lien for unpaid fines.
- 5.09 **Records and Statement of Account.** The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Roadway Parcel and Commonly Maintained Areas, specifying and itemizing the Common Expenses incurred. The Board shall, upon receipt of ten (10) days written

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notice to it or the Community Association and upon payment of a reasonable fee, furnish to any Unit Owner a statement of its account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner. Unit Owners shall be permitted to inspect the financial books and records of the Community Association, at any reasonable time or times and for any proper purpose, within seventy-two (72) hours after receipt by the Community Association of a written request for examination thereof. No Unit Owner shall be denied such a request to examine the records as provided above.

- 5.10 **Discharge of Liens.** A Unit Owner is not authorized to act in any manner so as to cause any purported mechanic's lien to be asserted against the Development, other than such Unit Owner's Unit. The Board may cause the Community Association to discharge any mechanic's lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the Residential Property only. When less than all the Unit Owners are responsible for the existence or assertion of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien. Nothing herein shall be deemed an authorization of a Unit Owner to cause any such lien to attach to the Development.
- 5.11 **Holding of Funds.** All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such separate or additional assessments as may be levied hereunder or under the Declaration against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held, in trust, for the benefit, use and account of all the Unit Owners in accordance with their Percentage Interests.
- 5.12 **Initial Deposit For Contingencies, Replacements and Insurance.** At the time the initial sale of each Unit is closed, the purchaser of the Unit shall pay to the Community Association an amount equal to two (2) times the first full monthly assessment for such Unit based upon such Unit's Percentage Interest, plus one hundred dollars (\$100.00). This sum shall be used to initially fund the reserve for contingencies and replacements described in Section 5.05 hereof and insurance. This payment shall not be refundable upon the Unit Owner's sale of its Unit nor may it be applied as a credit against the Unit Owner's monthly assessments.
- 5.13 **Non-Use and Abandonment.** No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Development or abandonment of its Unit.

## ARTICLE SIX

### Amendments; Miscellaneous Items

- 6.01 **Amendment.** Except as provided otherwise in the Declaration, these By-Laws may be amended or modified from time to time by action or approval of Unit Owners owning at least seventy-five (75%) of the Percentage Interests, provided, however, that no amendment or modification of these By-Laws shall conflict with the Declaration or the Act, and provided further that no provision of these By-Laws affecting the rights, privileges or duties of the Declarant, any First Mortgagee, the City or the Rental Mortgagee may be amended or modified without their written consent. Any amendments

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or modifications of these By-Laws made in accordance with this Article Six shall become effective upon the recording of same.

6.02 **Resale.** In the event of any resale of a Unit by a Unit Owner other than the Declarant, the Unit Owner shall obtain from the Board, and shall make available for inspection to the prospective purchaser, upon demand, the following:

- (a) A copy of the Declaration, these By-Laws, other relevant instruments and any rules and regulations.
- (b) A statement of any liens, including a statement of the account of the Unit Owner setting forth the amounts of unpaid assessments and other charges due and owing.
- (c) A statement of any capital expenditures anticipated by the Community Association within the current or succeeding two (2) fiscal years.
- (d) A statement of the status and amount of any reserve for replacement fund and any portion of such fund earmarked for any specified project by the Board.
- (e) A statement of the financial condition of the Community Association for the last fiscal year for which such a statement is available.
- (f) A statement of the status of any pending suits or judgments in which the Community Association is a party.
- (g) A statement setting forth the insurance coverage provided for all Unit Owners by the Community Association.
- (h) A statement that any improvements or alterations made to the Unit, or any part of the common areas assigned thereto, by the prior Unit Owner are in good faith and believed to be in compliance with the Declaration.

The principal officer of the Community Association or such other officer as is specifically designated shall furnish the above information when requested to do so in writing, within thirty (30) days of receiving the request. A reasonable fee covering the direct out-of-pocket cost of copying and providing such information may be charged by the Community Association or the Board to the Unit seller for providing the information.

6.03 **Contracts.** The Board may not enter into a contract with a current Board or director or with any entity in which a Board of director or a member of the Board of director's immediate family has twenty-five percent (25%) or more interest, unless notice of intent to enter into the contract is given to Unit Owners within twenty (20) days after a decision is made to enter into the contract and the Unit Owners are afforded an opportunity by filing a petition signed by twenty percent (20%) of the Unit Owners, for an election to approve or disapprove the contract; such petition shall be filed within twenty (20) days after such notice and such election shall be held within thirty (30) days after filing the petition. For purposes of this Section, a Board of director's immediate family means the Board of director's spouse, parents, and children.

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- 6.04 **Rights.** A Unit Owner may not assign, delegate, transfer, surrender, or avoid the duties, responsibilities, and liabilities of a Unit Owner under the Act, the Declaration, these By-Laws, or the rules and regulations of the Community Association. Any such attempted assignment, delegation, transfer, surrender, or avoidance shall be deemed void.
- 6.05 **Gender.** Words of the masculine or neuter gender shall mean and include the correlative words of other genders, and the words importing the singular number shall mean and include the plural number and vice versa.
- 6.06 **Errors And Omissions.**
- (a) If there is an omission or error in the Declaration, these By-Laws or other instrument of the Community Association, the Community Association may correct the error or omission by an Amendment to the Declaration, By-Laws or other instrument, as may be required to conform it to the Act, to any other applicable statute, or to the Declaration. The Amendment shall be adopted by vote of two-thirds (2/3) of the directors of the Board or by a majority vote of the Unit Owners at a meeting called for that purpose, unless the Act or the Declaration specifically provides for greater percentages or different procedures.
- (b) If, through a scrivener's error, a Unit Owner has not been designated as owning an appropriate undivided share of the Commonly Maintained Areas or does not bear an appropriate share of the Common Expenses, or if all of the Common Expenses or all of the Commonly Maintained Areas have not been distributed in the Declaration, so that the sum total of the shares of Common Elements which have been distributed or the sum total of the shares of the Common Expenses fail to equal one hundred percent (100%), or if it appears that more than one hundred percent (100%) of the Commonly Maintained Areas or Common Expenses have been distributed, the error may be corrected by operation of law by filing an amendment to the Declaration, approved by vote of two-thirds (2/3) of the Board or a majority vote of the Unit Owners at a meeting called for that purpose, which proportionately adjusts all Percentage Interests so that the total is equal to one hundred percent (100%), unless the Declaration specifically provides for a different procedure or different percentage vote by owners of the Unit and the owners of mortgages thereon affected by modification being made in the undivided interest in the Commonly Maintained Areas, the number of votes in the Community Association or the liability for Common Expenses appertaining to the Unit.
- (c) If an omission or error or a scrivener's error in the Declaration, these By-Laws or other instrument is corrected by a vote of two-thirds (2/3) of the Board pursuant to the authority established in subsections (a) or (b) of this Section, the Board, upon written petition by Unit Owners with twenty percent (20%) of the votes of the Community Association received within thirty (30) days of the Board action, shall call a meeting of the Unit Owners to consider the Board action. Unless a majority of the votes of the Unit Owners are cast at the meeting to reject the action, it is ratified whether or not a quorum is present.
- (d) The procedures for Amendments set forth in this subsection cannot be used if such an Amendment would materially or adversely affect property rights of the



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Unit Owners unless all the affected Unit Owners consent in writing. This Section does not restrict the powers of the Community Association to otherwise amend the Declaration, these By-Laws, or other condominium instruments, but authorizes a simple process of amendment requiring a lesser vote for the purpose of correcting defects, errors, or omissions when the property rights of the Unit Owners are not materially or adversely affected.

- (e) If there is an omission or error in the Declaration, these By-Laws or other instruments that may not be corrected by an amendment procedure set forth in subsection (a) or (b) of this Section, then the Circuit Court of Cook County shall have jurisdiction to hear a petition of one or more of the Unit Owners thereon or of the Community Association, to correct the error or omission, and the action may be a class action. The court may require that one or more methods of correcting the error or omission be submitted to the Unit Owners to determine the most acceptable correction. All Unit Owners in the Community Association must be joined as parties to the action. Service of process on Unit Owners may be by publication, but the plaintiff shall furnish all Unit Owners not personally served with process with copies of the petition and final judgment of the court by certified mail, return receipt requested, at their last known address.
- (f) Nothing contained in this Section shall be construed to invalidate any provision of the Declaration authorizing the Declarant to amend an instrument prior to the latest date on which the initial membership meeting of the Unit Owners must be held, whether or not it has actually been held, to bring the instrument into compliance with the legal requirements of the Federal National Mortgage Community Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the United States Veterans Administration or their respective successors and assigns.

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# EXHIBIT

## ATTACHED TO

65 Pg

1 - Ev

66 - Totals

## DOCUMENT

# SEE PLAT INDEX