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Michael I. Brown
Brown, Udell & Pomerantz, LTD.
1332 North Halsted Street
Chicago, Illinois 60622



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DECLARATION OF EASEMENTS, COVENANTS, AND RESTRICTIONS FOR THE DEMING ROW DEVELOPMENT MASTER ASSOCIATION

THIS DECLARATION is made and entered into this 12th day of August, 2005, by 458-466-468 Deming Building Corp.; 460-462 Deming Building, LLC; 454-456 Deming Building Corp.; 2600 Hampden Building Corp.; and 2545 Clark Building, LLC (the "Declarants").

RECITALS

The Declarant is the owner in fee simple of certain real estate (the "Deming Row Development Property") in the City of Chicago, County of Cook, and State of Illinois, legally described on Exhibit "A" attached hereto and made a part hereof.

The Deming Row Development is anticipated as a residential community which may eventually consist of six (6) condominium buildings, or five (5) condominium buildings and one single family home. Until a building is submitted to the Illinois Condominium Property Act, such building shall likely remain a residential apartment building or may be undergoing construction and or rehabilitation.

The Declarant intends hereafter to record, with respect to one or more portions of the Deming Row Development Property, a Declaration of Condominium for each Condominium Building upon the Property, pursuant to the terms of which the real estate described in any such Declaration of Condominium shall be submitted to the provisions of the Illinois Condominium Property Act ("Act"), subject to all of the terms, covenants, easements, restrictions, charges, and liens hereinafter in this instrument set forth. Until such Declaration(s) of Condominium are recorded, the respective owner(s) of the buildings located within the legal description attached hereto as Exhibit A shall be considered the Members of the Master Association as further described below. Once an Apartment Building has been submitted to the Act, all unit owners thereof shall be considered Members of the Master Association. Whether or not any particular

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building in the Deming Row Development Property shall be submitted to the provisions of the Illinois Condominium Property Act shall be in the sole discretion of the respective building Owner; it is possible that buildings within the Deming Row Development shall remain Apartment Buildings (as hereinafter defined.)

The Declarant desires to provide for the harmonious, beneficial and proper use of the Common Easement Areas and to facilitate the continuing care and maintenance thereof, as well as establish a body to supervise and administer the provision of necessary common services, enforce the covenants and restrictions, and collect and disburse the assessments and charges hereinafter created.

Declarant may incorporate the DEMING ROW DEVELOPMENT MASTER ASSOCIATION under the Not-For-Profit Corporation Act of the State of Illinois for the purposes of exercising the aforesaid functions.

NOW, THEREFORE, the Declarant hereby declares that the Deming Row Development Property is submitted to the provisions of this Declaration and shall be hereafter owned, held, transferred, sold, conveyed, occupied, mortgaged and encumbered subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, all of which shall run with the land and be binding upon and inure to the benefit of the owners, mortgagees and any other persons from time to time having or acquiring any right, title or interest in the Deming Row Development Property or any portion thereof.

ARTICLE I **DEFINITIONS**

As used herein, unless otherwise provided, the following words and terms shall have the following meanings:

1.0 **Apartment**: A residential housing unit in any Apartment Building which is or may be constructed upon the Property, and consisting of a group of rooms which may be attached to one or more other Apartments and which have been designed or intended for use exclusively as residential living quarters and have not been submitted to the Illinois Condominium Property Act.

1.1 **Apartment Building**: Any Building containing residential dwelling Apartments (which may currently be leased to Tenants or may be partially or wholly vacant while undergoing rehabilitation) which Building has not been submitted to the Illinois Condominium Property Act. The land upon which an Apartment Building is located may be referred to herein as an Apartment Parcel.

1.2 **Board**. The Board of Directors for the Master Association.

1.3 **RESERVED**.

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- 1.4 Common Easement Areas. Areas over which exist common easements for ingress, egress, use and enjoyment as granted by Article II hereof.
- 1.5 Common Expenses. The proposed or actual expenses affecting the Common Easement Areas of the Property, including reserves, if any, lawfully assessed by the Board.
- 1.6 Condominium Building. Any building constructed or to be constructed upon the Property consisting of individual units and any common elements appurtenant thereto, and which has been or shall be submitted to the Act by the recording of a condominium declaration.
- 1.7 Declarant(s). 458-466-468 Deming Building Corp.; 460-462 Deming Building, LLC; 454-456 Deming Building Corp.; 2600 Hampden Building Corp.; and 2545 Clark Building, LLC, their successors and assigns and/or such other persons or entities as it may from time to time designate, including without limitation the owners/developers of the buildings located on the property legally described on Exhibit A attached hereto.
- 1.75 Delegated Duties. Certain powers and duties that have been delegated from the Member Association or Member Owner to the Master Association as provided on Exhibit C hereto, as same may be amended from time to time.
- 1.8 Developers. 458-466-468 Deming Building Corp.; 460-462 Deming Building, LLC; 454-456 Deming Building Corp.; 2600 Hampden Building Corp.; and 2545 Clark Building, LLC, their successors and assigns and/or such other persons or entities as it may from time to time designate.
- 1.9 Maintenance Fund. All monies collected by the Master Association pursuant to the terms hereof.
- 1.10 Member. Each person or entity who is a member of the Master Association, as provided in Article IV below.
- 1.11 Member Associations. The Condominium Associations for each Condominium Building constructed on the Property, all or some of which may be incorporated as Illinois not-for-profit corporations.
- 1.12 Owner. A record owner, whether one or more persons or entities (including the Declarant), of fee simple title to any Unit or any building in the Deming Row Development Property, but excluding those having such interest merely as a security for the performance of an obligation. The Owner of a condominium unit located upon the Property may also be referred to herein as "Unit Owner".
- 1.13 Parcel. Each individual described lot or a grouping of lots located on the Property either as a Condominium or Apartment. Parcels having been submitted to the Illinois

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Condominium Property Act shall be referred to herein as "Condominium Parcels." Parcels upon which an Apartment or other building are located that have not yet been submitted to the Illinois Condominium Property Act shall be referred to herein as "Apartment Parcels." The Parcel located at 458 W. Deming, Chicago, Illinois may be completed as either a Condominium or a Single Family Home. If said Parcel is completed as a Single Family Home, same may be referred to as the Single Family Home Parcel.

1.14 Plat. The survey of the Property, attached hereto as Exhibit D and made a part hereof, and recorded with the recording of this Declaration, as the same may be amended or supplemented from time to time.

1.15 Property. The Deming Row Development Property which is legally described on Exhibit "A" attached hereto.

1.16 Share. A percentage assigned to each Condominium or Apartment Building located on the Property, as more fully set forth on Exhibit B attached hereto, or each Owner if the Master Association shall so elect, for the purposes of determining the allocation of the Common Expenses of the Master Association.

1.165 Single Family Home. A building that is neither an Apartment, an Apartment Building, a Unit or a Condominium Building that is intended for residential use by a single family.

1.17 Unit. A residential housing unit in any Condominium Building which is or may be constructed upon the Property, and consisting of a group of rooms which may be attached to one or more other Units and which have been designed or intended for use exclusively as residential living quarters or other defined units within any Condominium Building as designated in its Declaration of Condominium.

ARTICLE II **EASEMENTS**

2.0 Access Easements. Declarants hereby create and grant for their heirs, successors and assigns of Declarants, as easements appurtenant to the land, the following perpetual easements for ingress and egress:

(a) Parking Lot Easement(s): Declarants hereby create and grant for the successors and assigns of Declarants, a perpetual easement for vehicular and pedestrian ingress and egress over and maintenance of the Parking Lot as depicted on the Plat () attached hereto for the benefit of any Owner of any portion of the Deming Row Development Property. The Parking Lot Easement Area is included in the Common Easement Areas.

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(b) Sidewalk Easement(s): Declarants hereby create and grant for the successors and assigns of Declarants, a perpetual easement for pedestrian ingress and egress over and maintenance of all Sidewalks located within any portion of the Deming Row Development Property. The Sidewalk Easement Area is included in the Common Easement Areas.

(c) Bicycle Storage and Use Easement: The Owner, including Unit Owners, of the building or Units therein, located at 2600 Hampden Court, is hereby granted a non-exclusive easement for ingress, egress and use of a basement level bicycle storage room in the Apartment Building (which shall, once submitted to the Illinois Condominium Property Act, be considered a Condominium Building) located at 454-456 W. Deming, Chicago, Illinois. The Bicycle Storage and Use Easement is not included in the Common Easement Areas.

- 2.1 Easement for Existing, Incidental or Unintentional Encroachments. Certain encroachments by certain Buildings onto Parcels within the Deming Row Development Property, as same are shown on Exhibit D attached hereto, and only to the extent each Parcel or Building so encroaching is part of the Deming Row Development Property, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of the Member Association or individual member or Members of such Member Association or other Owner of a Building so encroaching. In the event that, by reason of construction, settlement or shifting of any Parcel or Building (be it an Apartment Building or Condominium Building) or other improvement located on the Property encroaches or shall hereafter encroach upon any portion of an adjacent Parcel, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of the Member Association or individual Member or Members of such Member Association or other Owner of a Building so encroaching. However, in no event shall a valid easement for any encroachment be created in favor of any Apartment Building or Condominium Building if such encroachment results from the willful conduct of the Member Association or individual Member or Members of such, or other Owner, so encroaching.
- 2.2 Utility Easements. Easements are hereby declared and granted to the appropriate utility companies and the City of Chicago, for utility purposes, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone and communications wires and equipment, and electrical conduits, wires and equipment over, under, along and on any part of the Property.
- 2.3 Blanket Easement in Favor of the Declarant and Developers. A blanket easement is created and granted in favor of the Declarant and the Declarant's affiliates, representatives, agents, associates, employees, contractors, subcontractors, successors and assigns and in favor of all Developers of the Property for the purpose of (i) access and ingress to and egress from the Property or any part thereof, (ii) construction, installation, repair, replacement and restoration of

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utilities, roads, buildings, landscaping and any other improvements on the Property or any part thereof including the right to restrict and regulate access to the Property or any common improvements for the purposes of completing construction and renovation of these areas or the improvements thereon, and (iii) the installation and maintenance of signs advertising the Apartment Buildings and/or Condominium Buildings and the Apartments or Units located therein on any of the common improvements thereon or any part thereof, and signs directing potential purchasers to the sales office and models erected in connection with marketing for sale of the Condominium Buildings or lease in the Apartment Buildings and the Units or Apartments located therein, and for such purposes as described in Article VII hereof. The foregoing easements in favor of the Declarant and Developers shall continue until such time as the Declarant and Developers no longer hold legal title to, or the beneficial interest in any trust holding legal title to, any Units or portions of the Deming Row Development Property, at which time such easements shall cease and be of no further force and effect without the necessity of any further action.

2.4 General Provisions. (a) All easements and rights described in this Master Declaration shall be perpetual nonexclusive easements appurtenant to and running with the land. They shall at all times inure to the benefit of and be binding on the undersigned, the Owners and their mortgagees from time to time of any Unit and their respective heirs, administrators, executors, personal representatives, successors and assigns. All persons who reside in a Unit or an Apartment shall have the same rights to use and enjoy the Property as the Owner of such Unit or Apartment, subject to the rules and regulations which may be adopted by the Board from time to time.

(b) Declarant hereby reserves for itself and Developers and their successors and assigns, the right to grant and allow certain additional easements with respect to the Property as more fully set forth in Article VII below.

(c) Notwithstanding any provision herein to the contrary, the easements created under this Article shall be subject to: (i) the right of the Declarant to improve the Property in accordance with such plans and specifications as Declarant and Developers deem appropriate; and (ii) the right of Declarant and Developers to execute all documents and do all other acts and things affecting the Property which, in the Declarant's and Developers' opinion, are desirable in connection with the Declarant's and Developers' rights hereunder, provided any such document or act or thing is not inconsistent with the property rights of any Owner. Declarant expressly reserves the right to use any portion of the Property for itself and Developers as is deemed necessary in connection with the sale or rental of improvements constructed or to be constructed within the Property.

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**ARTICLE III
USE, MAINTENANCE AND RESTRICTIONS
RELATING TO THE COMMON EASEMENT AREAS AND THE PROPERTY**

- 3.1 Use. Each Owner, and such Owner's tenants, guests, agents and invitees ("Occupants"), shall have the right to use and enjoy the Common Easement Areas in common with all other Owners and Occupants, subject to the terms and provisions hereof. The use of the Common Easement Areas and any common improvements thereon shall be subject to and governed by the provisions of this Master Declaration, the Master Association's Articles of Incorporation, the by-laws, if any, and the rules and regulations promulgated from time to time by the Board.

If an Owner, a member of such owner's family or household pet, or a guest or other authorized occupant or visitor of such Owner shall cause damage to the Common Easement Areas or any improvements thereon, or cause maintenance, repairs, or replacements to be required that would otherwise be a part of the Common Expenses, then such Owner shall pay for that damage and maintenance, repairs and replacements, as may be determined by the Board, to the extent not actually reimbursed to the Master Association by its insurance carrier pursuant to the terms and conditions of the Master Association policy, or any policy endorsement in effect for the benefit of the Master Association.

- 3.2 Maintenance. Except as otherwise provided for in this Declaration, the Master Association shall be responsible for the maintenance of the Common Easement Areas. This shall include, but shall not be limited to, maintenance and repair of the Parking Lot Easement Area; maintenance and repair of the Sidewalk Easement area; and the maintenance of any exterior lighting located upon the Common Easement Areas. The maintenance of the items as aforesaid shall be within the sole control, responsibility, and discretion of the Board. The cost of all capital improvements (other than capital improvements constructed by the Declarant) relating to the aforesaid items, and repair or maintenance of the aforesaid items, as well as all expenses for routine maintenance and upkeep, shall be the responsibility of the Master Association.

All other items, including without limitation, the buildings and building facades, shall be maintained by each respective Member Association or the Owner of the Apartment Building at their own expense, unless such duty has been delegated to the Master Association. In any event, the owner of any Apartment Building or Members of such Member Association shall be responsible for the cost of such maintenance either by their respective assessment contribution to the Master Association, or by direct payment for same or via invoice for any such charges paid on their behalf by the Master Association. The Master Association shall be responsible for the removal of snow from the Common Easement Areas and may also, upon written request from any Member Association or Owner,

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remove snow from entryways or stairs leading from the Sidewalk Easement Areas to the Building entry.

- 3.3 Restrictions. No Noxious, offensive or illegal activity shall be carried on in or on any portion of the Property, nor shall any thing be done therein or thereon, either willfully or negligently, which may be or become an annoyance or nuisance to the Owners or Occupants, negatively impact the quiet use and enjoyment of Units, or increase the rates or cause the cancellation of the Master Association insurance policy.
- 3.4 Remedies. The violation of any covenant, condition, restriction, rule or regulation adopted by the Board, or breach of any provision herein contained, shall give the Board the right, upon not less than ten (10) days advance written notice to the party creating the violation, to take the following actions in the event the violation is not cured within such ten (10) day period (or immediately in the event of any matter of an emergency nature which might result in damage to persons or property).
- (a) To enter upon any part of the Property, including the Apartment or Condominium Buildings, where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Owner or any Member Association, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Declarant, or its beneficiaries, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass.
 - (b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.
 - (c) To levy fines in such reasonable amounts and pursuant to such procedures for hearings and appeals as the Board from time to time determine against any Owner or Member Association.
- 3.5 Maintenance of the Parcels. Each Member Association or Apartment Parcel Owner shall maintain, repair and replace the interior and exterior of all improvements located on such Association's or Apartment Parcel, keeping the same in sightly and good condition and repair, including without limitation, all painting, staining, refinishing, maintenance, repair, replacement and tuck pointing of exterior surfaces and structural components of the buildings located thereon, including without limiting the generality of the foregoing, all sidings, outer walls, shutters, gutters, downspouts, screens, doors and glass surfaces of any buildings located thereon and as applicable.

The failure of a Member Association or Apartment Parcel Owner to comply with the foregoing maintenance requirements, shall give the Board, or

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such other Member Association or Apartment Parcel Owner, the right, upon not less than ten (10) days advance written notice to such Member Association, to take action in the event such failure is not cured (or immediately in the event of any matter of an emergency nature which might result in damage to persons or property), to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. Such action shall be taken only after providing the Member Association or Apartment Parcel Owner an opportunity to cure such failure; notice of such alleged failure shall be provided by written notice to the Member Association or Apartment Parcel Owner by First Class and Certified or Registered Mail. Should the notified Member Association or Apartment Parcel Owner fail to cure the alleged failure within thirty (30) days following such notice, The Board or other Member Association or Apartment Parcel Owner serving such notice, shall serve such ten (10) day notice delineated above. The prevailing party in such suit shall have the right to reimbursement of all expenses in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses and any and all damages, liquidated or otherwise, together with interest thereon at the rate of ten percent (10%) per annum until paid, shall be charged to and assessed against such Member Association, as applicable, and shall be added to and deemed a part of such Member Association's share of the expenses of the Master Association, and the prevailing Member Association shall have a lien for all of the same upon the Parcel of the defaulting Member Association and upon all of such additions and improvements thereto.

ARTICLE IV **ADMINISTRATION**

- 4.1 Master Association. The Master Association may be formed as a not-for-profit Illinois Corporation under the General Not-For-Profit Corporation Act of the State of Illinois having the name "DEMING ROW DEVELOPMENT MASTER ASSOCIATION" (or one similar thereto). Except as otherwise provided in this Declaration, the administration of the Property as set forth herein shall be vested in the Master Association, through its duly elected Board of Directors, and the Master Association shall, to the extent hereafter provided and subject to the limitations hereafter contained, be the governing body relating to the administration and maintenance of the Common Easement Areas and shall be responsible for the administration of all other terms, conditions and restrictions set forth herein.
- 4.2 Membership. Every Owner shall be a Member of the Master Association and such membership shall automatically terminate when such person ceases to be an Owner. Membership is appurtenant to and shall not be separated from ownership of a Unit or Apartment Parcel. Each Owner by acceptance of a deed or other conveyance of a Unit thereby becomes a Member, whether or not this declaration of such membership is made a part of, incorporated by reference or expressed in

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said deed or conveyance. Termination of membership shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with the Unit or Apartment Parcel or the Master Association during the period of such ownership and membership in the Master Association. Furthermore, termination of membership shall not impair any rights or remedies which the Board or others may have against such former Owner arising from, or in any way connected with, such ownership and membership and the covenants and obligations incident thereto.

4.3 Board of Directors. The affairs of the Master Association shall be managed by the Board of Directors.

- (a) Election. Until the date of the Transfer Meeting, as defined below, no Member shall have the right to elect the Board of Directors. The initial Board of Directors shall be designated by the Declarant, and shall consist of three (3) directors who shall serve without compensation. The initial Board shall serve for a period commencing on the date the Master Association is formed by the filing of the Articles of Incorporation with the office of the Secretary of State of Illinois and ending upon the qualification of the Directors elected at the first meeting of the Members (the "Transfer Meeting"). The Transfer Meeting shall be held within twenty one (21) days from the receipt of notice from the Declarant, which notice shall be given no later than sixty (60) days from the sale and conveyance of 75% of the Condominium Units located or to be located on the Property or within three (3) years after the recording of this Declaration, whichever is earlier.

At the time of the Transfer Meeting and thereafter, the boards of directors from each existing Condominium Association shall appoint representatives to serve on the Board of Directors as follows: The board of directors of each existing Condominium Association shall have the right to appoint one (1) person from its board to serve on the Board. The Owner of each Apartment Building shall appoint one (1) person to serve on the Board which appointee may be a principal or employee of said Apartment Building Owner. In the event 458 Deming, Chicago, Illinois is developed as a Single Family Home, the Owner of the Single Family Home shall be a member of the Board of Directors; if there is more than one Owner of the Single Family Home, only one of said Owners shall be the representative member of the Board of Directors. If the Single Family Home, if any, is owned by the Declarant or Developer, Declarant or Developer shall appoint one (1) person to serve on the Board which appointee may be a principal or employee of said Declarant or Developer Owner.

- (b) Term. Members of the Board appointed at the Transfer Meeting, or subsequent election meeting, shall serve for a period of one (1) year until

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such time as the Members from the Condominium Association from which they were appointed elects to remove or replace them, or until they are no longer an Owner of a Unit on the Property.

- (c) Annual Meeting. At each annual meeting of the Members, after the Transfer Meeting, the members of each Condominium Association shall be entitled to affirm the appointment on a cumulative basis for their respective appointments to the Board, an appointee receiving affirmation by the majority of those Members present shall be deemed to be elected. An appointee for election to the Board or such appointee's representative shall have the right to be present at the counting of the ballots at such affirmation. The Board may disseminate to Owners biographical and background information about such Owners appointees to the Board.
- (d) Regular Meetings. A regular annual meeting of the Board shall be held immediately after, and at the same place as, the annual meeting of Members. The Board shall, by regulations which the Board may, from time to time adopt, provide the time and place for the holding of additional regular meetings of the Board, provided that the Board shall meet at least four times per year.
- (e) Special Meetings. Special meetings of the Board may be called by or at the request of the President or any one (1) of the members of the Board. The person or persons permitted to call special meetings of the Board may fix the time and place for holding any special meeting of the Board called by them.
- (f) Notice. Written notice of any special meeting of the Board shall be mailed or delivered to all Members and all members of the Board not calling the meeting at least 48 hours prior to the date of such special meeting, such notice shall provide whether or not such Special Meeting is open to the Members. Written notice of regular meetings of the Board shall be mailed or delivered to all Members at least 48 hours prior to the date of such meeting. All such notices shall be deemed to be mailed when deposited in the United States mail addressed to each member at his address as it appears on the records of the Master Association, with proper postage thereon paid. The general business to be transacted at, or the general purpose of any regular or special meeting of the Board, shall be specified in the notice. Notices of a regular meeting of the Board need not be served on members of the Board. However, copies of said notices of meetings of the Board shall be posted in various locations such as entranceways or other conspicuous places as designated by the Board at least 48 hours prior to the meeting.
- (g) Vacancies. Vacancies in the Board shall be filled by the Condominium Association from which the vacating director was appointed or by

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appointment by the Apartment Building Owner, as applicable. A Member elected to fill a vacancy shall be elected for a one (1) year term as provided in Subsection (b) above.

- (h) Election of Officers. The Board shall elect from among its directors a President who shall preside over both its meetings and those of the Members, if any, and who shall be the chief executive officer of the Board and the Master Association and who shall be allowed to cast a deciding vote in the event of any tie vote between and among the Board Members; a Vice President, who, in the absence of the President, shall perform the duties of the President; a Secretary, who shall keep minutes of all meetings; a Treasurer, who shall have charge and custody and be responsible for all funds and securities of the Master Association; and such other officers as the Board shall see fit. A Board Member may serve in multiple offices (for example, as Treasurer and Vice-President). The officers shall be elected annually by the Board at the regular annual meeting of the Board. Vacancies may be filled or new offices created and filled at any meeting of the Board. Any officer elected by the Board may be removed by a majority vote of the Members of the Board.
- (i) Qualifications of Board. With the exception of the Declarant who shall have the rights, as set forth above, to designate and select the persons who shall serve as directors until the Transfer Meeting, each member of the Board serving as a representative of a Condominium Building shall be one of the Owners. The representative of an Apartment Building shall be appointed by the Owner of the Apartment Building and may be a principal or employee of such Owner.
- (j) Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board, provided that, if less than a majority of the Directors are present at the meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.
- (k) Removal. From and after the date of the first annual meeting of the Members, any Director may be removed from office by the affirmative vote of Two Thirds (2/3rd) of all the Members at a special meeting called for such purpose.
- (l) Meetings of the Board – Attendance by the Members. All Meetings of the Board shall be open to the Members, provided that the Board shall not be required to discuss the following at any such Regular Meeting (i) any litigation when an action against or on behalf of the Master Association, a member of the Board or an officer of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probable or imminent; (ii) any information regarding

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appointment, employment or dismissal of an employee, agent or contractor hired by or on behalf of the Board; (iii) any violations of rules and regulations of the Master Association or unpaid shares of Common Expenses by any Owners or Member Associations; or (iv) any information the Board reasonably considers to be in the best interests of the Association to remain confidential at such time. Any vote on the forgoing matters shall be taken at a meeting or portion thereof open to the Members.

- (m) General Provisions. The Board shall act by majority vote or those present at its meeting when a quorum exists. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt.

4.4 Meetings of Members. Meetings of Members shall be held annually at the discretion of the Board and at such places and times as shall be designated in any notice of a meeting by the Board. Any notice of an annual meeting of Members shall include a meeting agenda.

- (a) Notices. Written notices of annual or special meetings shall be delivered personally or by mail to the Members, addressed to each such Member at the address given by him to the Board, or if no address shall be given, addressed to such Member to the address of such person's Unit. Notices shall state the purpose, place, day and time of the meeting and shall be mailed or delivered to each Member not less than ten (10) days before the date of such meeting and no more than thirty (30) days before the date of the meeting.
- (b) Quorum. The Members holding twenty percent (20%) of the votes that may be cast at any meeting shall constitute a quorum at such meeting. If a quorum is not present at any meeting of members, a majority of the members present may adjourn the meeting from time to time and without further notice.
- (c) Voting. Commencing with the date of the first annual meeting of the members, there shall be one (1) vote for each Condominium Unit. If a Unit is owned by more than one person, the voting rights with respect to such Unit shall not be divided. If only one of the multiple owners of a Unit is present at a meeting, he is entitled to cast all the votes allocated to that Unit. If more than one of the multiple owners are present, and if any one of the multiple owners cast the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit, there is deemed to be majority agreement.

In the event one or more Apartment Buildings have not been submitted to the Illinois Condominium Property Act at the time a vote is called, the

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owner of an Apartment Building shall be entitled to the following number of respective votes, representing the total number of apartments or anticipated Units and parking spaces or Units: 454-456 Deming - 16 votes; 460-462 Deming - 16 votes; 2545-49 Clark Street - 26 votes; 466-468 Deming - 15 votes; 458 Deming - 3 votes.

- (d) Special Meetings. Special meetings of the Members may be called by the Board, the President, or not less than 20% of the Members. All matters to be considered at special meetings of the Members called by not less than 20% of the Members shall first be submitted in writing to the Board not less than ten (10) days prior to the date of the special meeting of the Members called to consider such matters.
- (e) Proxies. At any meeting of Members, a Member entitled to vote may vote either in person or by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution. Any proxy distributed for election of Members of the Board shall give Owners the opportunity to designate any person as the proxy holder and shall give the Owner the opportunity to express a preference for any of the known candidates for the Board or to write in a name. Any proxy must be executed in writing by the Owner or his duly authorized attorney-in-fact, must bear the date of execution, and shall be invalid after 11 months from the date of its execution.
- (f) Installment Contracts. Anything herein to the contrary notwithstanding, in the event of a sale of a Unit, pursuant to an installment contract for purchase of such Unit shall, during such times as he or she resides in the Unit, be counted toward a quorum for purpose of election of members of the Board at any meeting of the Owners called for the purposes of electing members of the Board, shall have the right to vote for the election of members of the Board, and shall have the right to be elected to 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 Master Association or its agents. "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.
- (g) Manner of Acting. Except as set forth below and except as otherwise required by the Declaration or the Act, any action to be taken at any meeting of the members at which a quorum is present shall be upon the native vote of more than 50% of the members represented at such meeting. The following matter shall require the affirmative vote of not less than 67% of all the Members at a meeting duly called for that purpose: (i)

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Merger or consolidation of the Master Association; (ii) Sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, of the property and assets of the Master Association; or (iii) The purchase and sale of land on behalf of the Owners.

4.5 General Powers of the Board. The Board, and the Declarant prior to the Transfer Meeting, shall have the following general powers:

- (a) To adopt reasonable rules and regulations governing the use, operation, maintenance and administration of the Common Easement Areas and to amend them from time to time. The Board shall have all the powers necessary and incidental to the operation and management of the Master Association and to take such action as may be required to enforce the provisions of this Declaration and any rules and regulations adopted by the Board.
- (b) To prepare, adopt and distribute the annual budget.
- (c) To levy and collect assessments from the Member Associations, or the Owners as applicable, and to impose charges for late payments of assessments, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, to levy reasonable fines for violations of this Declaration and the rules and regulations of the Master Association.
- (d) To provide for the beautification, maintenance, repair and replacement of the Common Easement Areas and all improvements thereon including, without limitation, landscaping and snow removal upon the Common Easement Areas and adjacent public sidewalks, and the maintenance and administration of the Clubhouse.
- (e) To engage the services of a manager or managing agent, who may be any person, firm, or corporation, on such terms and compensation as the Board deems fit, provided that the term of any such engagement shall not exceed three years or the time prescribed by the Act, as applicable, whichever is shorter.
- (f) To engage the services of any persons (including but not limited to accountants and attorneys) deemed necessary by the Board at such compensation deemed reasonable by the Board in the operation, repair, maintenance, and management of the Common Easement Areas, and to remove, at any time, such personnel.
- (g) To enter into contracts on behalf of, and to purchase or secure in the name of, the Master Association any materials, supplies, insurance (including, without limitation, directors and officers liability insurance), equipment, fixtures, labor required by the terms of this Declaration or the bylaws of

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the Master Association, or which in the reasonable opinion of the Board shall be necessary or proper for the operation or protection of the Master Association and its members and for the enforcement of the provisions of this Declaration.

- (h) To establish and maintain one (1) or more bank accounts (granting authority as the Board shall desire to one (1) or more persons to draw upon such accounts) for the deposit of any funds paid to or received by the Master Association. To invest any funds of the Master Association in certificates of deposits, money market funds, or comparable investments.
- (i) To pay real estate taxes, special assessments and any other special taxes or charges of any lawful taxing body, which are authorized by law to be assessed and levied upon the Common Easement Areas, and to seek relief from or in connection with the assessment or levy of any real estate taxes, special assessments or charges.
- (j) To borrow money in the name of the Master Association to provide for the maintenance, repair or replacement of the Common Easement Areas and/or any improvements located thereon. The Board shall have the power to secure such funds by pledging and granting a security interest in the assessments due the Master Association.
- (k) To adjust the amount, collect and use any insurance proceeds to repair damages or replace lost property, and if proceeds are insufficient to repair damaged or replace lost property to assess the appropriate Member Associations or Members, as applicable, in proportionate amounts to cover the deficiency.
- (l) To enter upon, and to have its contractors, subcontractors, agents and employees enter upon, the Common Easement Areas as may be required to exercise all of the rights and obligations granted to or imposed upon it pursuant to this Declaration or to correct any condition that in the Board's reasonable judgment is a nuisance or is damaging to the use, enjoyment, operation or maintenance of the Common Easement Areas.
- (m) To record the dedication of a portion of the Common Easement Areas to a public body for use as, or in connection with, a street or utility where authorized by the Owners. To record the granting of an easement for the laying, maintenance, and repair of cable television, or communications cable or for the construction, maintenance, and repair of a project for protection against water damage of erosion, where authorized by the Owners.

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- (n) To grant and allow access easements over and upon the Common Easement Areas for the benefit of neighboring properties, and to accept grants of easements for the benefit of the Common Easement Areas.
- (o) To have standing and capacity to act in a representative capacity in relation to matters involving the Common Easement Areas on behalf of the Members.
- (p) To exercise any and all powers, rights and authorities provided in the Illinois General Not-For-Profit Act, as amended from time to time.
- (q) To exercise any duties specifically delegated to the Master Association by any Member Association or Apartment Building Owner (the "Delegated Duties"), which may include, but shall not be limited to: entering into contracts or leases on behalf of, and to purchase or secure in the name of, the Member Association or the Apartment Building Owner any materials, supplies, insurance (including, without limitation, directors and officers liability insurance), equipment, fixtures, labor required by the terms of the applicable Declaration of Condominium for the Member Association, the bylaws of the Member Association, or this Declaration. The Delegated Duties more fully described in, and attached hereto as, Exhibit C, as same may be amended from time to time in the same manner as this Declaration may be amended.

Nothing herein shall be construed to give the Master Association, or its Board, the authority to conduct an active business for profit on behalf of the Owners.

To the extent that costs or fees due pursuant to any of the Delegated Duties are paid to the Master Association via regular assessments paid to the Master Association by a Member Association or Apartment Building Owner or other Owner, the Master Association shall pay such expenses from such assessments. Member Associations and Apartment Building Owners are required to directly pay any fees due pursuant to any contracts or other expenses related to any Delegated Duties which are not included in the regular assessments paid by the Member Association or Apartment Building Owner to the Master Association. In the unlikely event that the Master Association elects to pay any such amounts due on behalf of the Member Association or Apartment Building Owner or any other Owner, any such monies due shall be repaid to the Master Association not later than fifteen (15) business days after notice thereof and such required payment shall not be considered regular assessments or special assessments as same are defined in this Declaration.

All expenses, charges and costs of the maintenance, repair or replacement of the Common Areas, and any other expenses, charges or costs which the

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Master Association may incur or expend pursuant hereto, shall be approved by the Master Association, and a written memorandum thereof prepared and signed by the treasurer. There shall be no structural alterations, capital additions to, or capital improvements on the Common Areas (other than for purposes of repairing, replacing and restoring portions of the Common Areas) requiring an expenditure in excess of Ten Thousand Dollars (\$10,000.00), except by the Declarant, without the prior approval of at least 67% of the Unit Owners.

- 4.6 Liability of the Board of Directors. Neither the members of the Board (including Declarant and the initial members of the Board as appointed by Declarant) nor the officers of the Master Association shall be liable to any Owner for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Board members and officers except for any acts or omissions found by a court to constitute gross negligence or fraud. The Owners shall indemnify and hold harmless each of the members of the Board (including Declarant and the initial members of the Board as appointed by Declarant) and each of the officers of the Master Association against all contractual and other liabilities to others (including an action by or in the right of the Master Association, the Member Associations or the Owners) arising out of contracts made by or other act or omissions of any nature whatsoever of the Board (including Declarant and the initial members of the Board as appointed by Declarant) and officers of the Master Association on behalf of the Owners or arising out of their status as Board members or officers unless any such contract or act or omission shall have been made fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, without limitation, attorneys' fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, in which any member of the Board (including Declarant and the initial members of the Board as appointed by Declarant) or officers of the Master Association may be involved by virtue of having been such member or officer. However, such 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 gross negligence or fraud in the performance of his duties as such member 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, there is not reasonable ground for such person being adjudged liable for gross negligence or fraud in the performance of his duties as such member or officer.

To the extent that a member of the Board (including Declarant and the initial members of the Board as appointed by Declarant) or an officer of the Association has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in the foregoing paragraph, or in defense of any claim, issue or matter therein, he shall be indemnified against the expenses

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(including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding, as authorized by the Board in the specific case, upon receipt of an undertaking by or on behalf of the members of the Board or the officer of the Association to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized in this Article 4.6. The sums necessary to discharge the obligations of the Association under this Article 4.6 shall be common expenses, and the Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations hereunder.

The indemnification provided by this Article 4.6 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board, or otherwise, both as to action in his official capacity and as to action in other capacity while holding such office, and shall continue as to a person who has ceased to be a member of the Board (including Declarant and the initial members of the Board as appointed by Declarant) or an officer of the Association and shall inure to the benefit of the devisees, legatees, heirs, executors, administrators, personal representatives, successors, and assigns of such person or entity. In the event the Association and the Board shall amend this indemnification provision, such amendment shall not apply retroactively to any member of the Board (including Declarant and the initial members of the Board as appointed by Declarant) or any officers of the Association so indemnified hereunder.

- 4.7 Books and Records. The Books and records of the Master Association may be examined by any Owner or their mortgagee at the office where such books and records are maintained, during normal business hours for any proper purpose upon prior written notice to the Board.

ARTICLE V **INSURANCE**

- 5.1 Insurance Coverage. The Board on behalf of the Master Association shall have the authority and duty to acquire and maintain insurance for the Common Easement Areas and improvements located thereon as follows:
- (a) Casualty Insurance. A separate policy or policies of insurance with respect to the improvements on the Common Easement Areas insuring against loss or physical damage. The necessity of such coverage as well

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as the amount and type of such coverage shall be determined by the Board. Perils to be covered by such policies shall be no less than “all risk” or “special form” on real property and “broad form” named perils on personal property, and such other perils as may be deemed appropriate by the Board.

- (b) Commercial General Liability Insurance. Commercial General Liability Insurance shall cover personal and bodily injury and property damage. Such insurance shall provide limits of liability as deemed desirable by the Board, but in no event for less than One Million Dollars (\$1,000,000) combined single limit per occurrence with a general policy aggregate of One Million Dollars (\$1,000,000) for personal and bodily injury or property damage. Such policy shall be endorsed to cover cross liability claims of one insured against the other.
- (c) Umbrella Liability Insurance. If needed, Umbrella Liability Insurance shall be in excess of the required Comprehensive Commercial Liability and Employer Liability policies in an amount deemed desirable by the Board, in an amount to be determined by the board with respect to each occurrence.
- (d) Fidelity Insurance. Fidelity Insurance in the form of a fidelity bond indemnifying the Master Association, the Board, and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Master Association or its managing agent or of any other person handling funds of the Master Association, the Board or the Owners in such amounts as shall be determined by the Board. Such bond shall delete any exclusion pertaining to persons who serve without compensation from any definition of “employee” or similar expression and shall contain a managing agent Endorsement if available. The Board may also obtain Blanket Crime insurance covering money and securities on and off the premises and depositors’ forgery coverage in amounts as the Board shall deem desirable.
- (e) Other. The Board shall obtain such other insurance as the Board shall deem desirable, which may include, without limitation, Directors and Officers Liability Insurance and Worker’s compensation insurance as may be necessary to comply with applicable laws.
- (f) Premium. The premium for the above described insurance and bond shall be Common Expenses paid by the Board on behalf of the Master Association out of the Maintenance Fund.

5.2 Insurance Carriers. All insurance provided for herein shall be effected under valid and enforceable policies issued by insurance companies authorized and licensed to transact business in the State of Illinois.

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- 5.3 Insureds. All policies of insurance of the character described above shall name as insureds the Master Association, the Board, the managing agent, and the other agents and employees of such Master Association, Board and managing agent and the Declarant in the Declarants' capacity as an Owner and Board member and shall also provide coverage for each Owner and each subordinate association, as applicable. In the event, any of the above insurance requirements are best satisfied by virtue of an endorsement for insurance policies held by another association, then such association shall obtain such endorsement at the direction of the Master Association and the Master Association shall pay the applicable costs of such endorsement, if any.

ARTICLE VI ASSESSMENTS

- 6.1 Personal Obligation. The Member Associations together with each Unit Owner or Apartment Building Owner, by virtue of the recording of this Master Declaration, whether or not it shall be so expressed in such Associations' declarations or in such individual Owner's deed, are deemed to covenant and hereby agree to pay to the Master Association such assessments as are levied pursuant to an annual budget adopted by the Master Association pursuant to the provisions of this Declaration. Such assessments, together with interest thereon and costs of collection, if any, as herein provided, shall be a charge and continuing lien upon the Member Association or individual against which such assessment is made. Additionally, such assessments, together with interest thereon and costs of collection, if any, as herein provided, shall be a charge on the common elements of each Member Association and each Unit, as applicable, and shall be a continuing lien on the common elements of such Member Association, Unit against which each such assessment is made. Each Owner, other than the Declarant, shall be personally liable for such Owner's share of such assessments whether such assessments are charged to such Owner's Member Association or to such Owner directly, together with the applicable interest, costs, and late fees. Personal liability for such past due assessments shall not pass to an Owner's successor in title unless expressly assumed.

Each Member Association or Apartment Building Owner shall be allocated a percentage ownership interest as more fully set forth on Exhibit B attached hereto and incorporated herein by reference, and each Member Association shall pay assessments on behalf of its members. However, the Board reserves the right to assess the Owners of Units individually for the Common Expenses in lieu of assessing the Member Associations as a whole, and each Unit Owner by acceptance of a deed for a Unit located within the Property, whether it shall be so expressed in any such deed or other conveyance, is deemed to covenant and hereby agrees to pay to the Master Association such assessments as are levied pursuant to an annual budget adopted by the Master Association upon

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not less than thirty (30) days' notice to the Members. The Master Association may at anytime assign a percentage ownership to each Unit for the purposes of voting and determining the allocation of Common Expenses in the Master Association. Such assignment of percentage ownership shall be based upon the percentage interest allocations to each Unit, Apartment Building Owner, or Member Association as set forth in Exhibit B, as amended from time to time. The percentage interest allocation for a Condominium Building shall be divided between all of the Units based upon each Unit's ownership interest in the common elements of the condominium. Assessments shall vary based upon the actual budget adopted by the Board from time to time.

- 6.2 Purpose of Assessments. The assessments levied by the Master Association shall be used for the improvement, maintenance, conservation, beautification, and administration of the Common Easement Areas and the establishment of such reasonable reserves, if any, as the Board deems appropriate, including but not limited to the payment of all costs and expenses and the provision of all services, materials, and property that the Board has the obligation or power to pay or provide.
- 6.3 Categories of Assessments. There shall be two categories of assessments as follows: (1) the general assessment, which shall be levied annually or at such other interval as the Board deems appropriate, to include all costs and expenses other than special assessments, and (2) special assessments, which shall be levied for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair, or replacement of a capital improvement on the Common Easement Areas, including the necessary fixtures, and personal property related thereto or for any other reason.
- 6.4 Annual Budget. The Declarant has established an estimated operating budget ("Estimated Operating Budget"). Each year on or before November 1st, the Board shall estimate an annual budget of Common Expenses including the total amount required for the cost of wages, materials, insurance, services and supplies that will be required during the next calendar year for the rendering of all services by the Master Association as provided herein, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, if any, and it shall also notify the board of directors of the Member Associations on or before November 5th in writing as to the amount of such estimate with a reasonable itemization thereof. Each Unit Owner shall receive a copy of the proposed annual budget at least thirty (30) days prior to the adoption thereof by the Board. Such Common Expenses shall be assessed to each Member Association or Apartment Building Owner (or each Owner if the Master Association shall so elect) proportionally as set forth on Exhibit B attached hereto and incorporated herein by reference, and in accordance with the annual Master Association budget and as determined by the Board. On or before January 1 of the next year, and on the first day of each third month thereafter of said year, each Member Association shall be obligated to pay One Fourth (1/4th) of the portion of

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the Common Expenses allocated to each for payment. Each year the Board shall prepare an itemized accounting of the expenses for the preceding calendar year and the amounts collected and showing the net excess or deficit of income over expenditures plus reserves.

Assessments shall commence upon thirty (30) days written notice to each Member Association or Apartment Building Owner and the first assessment payment shall be due on the first day of the next full month after such notice is given. On the first day of each third month thereafter of said calendar year, each Member Association or Apartment Building Owner shall be obligated to pay One Fourth (1/4th) of the portion of the Common Expenses allocated to each for payment, and the final payment (or the first payment if there are less than four months remaining in the calendar year) for said calendar year shall be prorated accordingly.

The Board may establish and maintain a reasonable reserve for contingencies and replacements of the Common Easement Areas. To establish such Reserve, Declarant shall collect from each Unit Owner upon conveyance by Declarant of a Unit to such Owner, a set amount to be determined by Declarant (the "Reserve Fund Deposits"). Declarant shall be prohibited from using the Reserve Fund Deposits to defray any of its expenses or construction costs or to make up any budget deficit while it is in control of the Master Association. At the time of the Transfer Meeting, Declarant shall remit the collected Reserve Fund Deposits to the Master Association; however, the Declarant shall not be required to pay a Reserve Fund Deposit to the Master Association for any unsold Units until each such Unit has been sold and conveyed by Declarant. Extraordinary expenditures not originally included in the annual budget, which may become necessary during the year shall be charged first against such reserve. If said regular assessment proves inadequate for any reason, including nonpayment of any assessments, the Board may at any time levy a further assessment.

The failure or delay of the Board in preparing or delivering the annual budget to each Member Association, or to the Members individually if the Board so elects, shall not constitute a waiver or release in any manner of each Member Association's or any individual Owner's obligation to pay assessments, as herein provided, whenever the same shall be determined, and in the absence of the preparation and delivery of any annual or adjusted budget, each Association shall continue to pay the annual assessment charge at the then existing quarterly rate established for the previous calendar year until such new or annual or adjusted budget shall have been mailed or delivered.

- 6.5 Special Assessments. No Special Assessment may be levied by the Board for an expenditure in excess of Ten Thousand Dollars (\$10,000) unless such expenditure is approved by a vote of two thirds (2/3) of the Members. The due date or dates, if it is to be paid in installments, of any Special Assessment shall be

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fixed in the resolution authorizing such assessment. Written notice of any Special Assessment shall be delivered or mailed to every Member or Association subject thereto not less than thirty (30) days before the effective or due date thereof.

- 6.6 Nonpayment of Assessments. Any assessment, which is not paid when due, shall be deemed delinquent. If an assessment is not paid within ten (10) days after the delinquency date, such assessments shall bear interest at the rate of ten percent (10%) per annum from the delinquency date and the Board may impose a flat fee of \$25 per month (or other such amount as the Board may determine from time to time). Such fees and costs, including attorney's fees incurred in connection thereto shall constitute a lien and personal obligation discussed in Article 6.1 above. The Board shall in the name of and on behalf of the Master Association, have all rights and remedies to enforce such collections as shall from time to time be permitted by law, including bringing an action at law or in equity against such Member Association and/or any Owners for their proportionate share of the delinquent assessment and foreclosing the aforesaid liens. All expenses of the Master Association in connection with such action or proceedings, whether or not suit shall be instituted, including attorney's fees and court costs and other fees and expenses shall be charged to and assessed against such defaulting Member Association and/or its Members and shall be added to and deemed part of the assessments and the Master Association shall have a lien for all of the same upon the common elements of such Member Association and/or upon the Units of the Members as applicable. Should any Member Association or Owner fail to pay the Master Association assessment, the Master Association reserves the right to restrict the defaulting Member Association and the Members of such Association's use of any portion or portions of the Common Easement Areas.
- 6.7 Proof of Payment. Upon written demand of a Member Association, or an Owner or mortgagee at any time, the Master Association shall furnish such Association, Owner or mortgagee with a written certificate signed by an officer of the Master Association setting forth whether there are any unpaid annual or special assessments levied against such Association generally or Owner's Unit. Such certificate shall be conclusive evidence of payment of any annual or special assessments not stated therein as unpaid.
- 6.8 Subordination of Lien to Mortgage. Any first mortgage or first trust deed made, owned, or held by a bank, savings and loan association, or other institutional lender, and recorded before the recording or mailing of a notice by the Board of the amount owing by an Owner or Member Association who has refused or failed to pay such Owner's or Association's share of any assessment when due shall be superior to the lien of such unpaid assessment set forth in said notice and to all assessments that become due and are unpaid subsequent to the date of recording of such first mortgage or first trust deed; provided, however, that after written notice to the holder of any such mortgage or trust deed, such mortgage or trust deed shall be subject to the lien of unpaid assessments that are due and payable after the date when such holder takes possession of the Unit, accepts a

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conveyance of such Unit, or has a receiver appointed in a suit to foreclose the lien of such mortgage or trust deed.

- 6.9 General Provisions. (a) The Board shall keep full and correct books of account on such basis as the Board shall determine. Upon request of any Member Association, Owner or Mortgagee, such books of account may be inspected by such requesting person or its representative, duly authorized in writing, at such office and at such reasonable time or times during normal business hours, as the Board shall designate in writing. (b) No Member Association, Apartment Building Owner or Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Easement Areas or abandonment of the Owner's Unit. (c) Declarant may collect a fee from each purchaser of a Unit at the closing of such transaction to create an initial reserve fund for the Master Association. A Reserve Fund Deposit shall be collected from each and every purchaser of a Unit at the closing of such transaction and shall be deposited into an account for the benefit of the Master Association. Declarant shall turn over all collected funds to the Board at the Transfer Meeting, or with respect to any Units that close after the Transfer Meeting, Declarant shall turn over such collected funds the Board after the closing of each such Unit.

ARTICLE VII RIGHTS RESERVED TO DECLARANT

- 7.1 Declarant's Promotional Rights. The right is reserved to the Declarant and Developers to place and maintain on any area of the Property, including without limitation the Common Easement Areas, construction trailers, sales offices, fencing, flag poles, advertising signs, banners and lighting in connection therewith and other promotional facilities at such locations and in such forms as shall be determined by the Declarant and Developers for construction, sales and leasing purposes. There is also reserved to the Declarant and Developers, their agents, employees and prospective purchasers and tenants, the right of ingress, egress and transient parking in and throughout the Property for such sales and leasing purposes. The Declarant also reserves the right to Declarant and Developers to maintain on the Property without charge (a) a general office for the purpose of exercising the rights reserved herein, (b) a general construction office for Declarant's and Developers' contractors and subcontractors and (c) appropriate parking facilities for the employees of Declarant and Developers' agents and contractors and for prospective purchasers. Declarant and Developers aforesaid reserved rights shall continue for so long as Declarant and Developers or any successor owner of the Property or any Parcel therein is engaged in the construction, sale or leasing of Units on any portion of the Property and the Additional Property.
- 7.2 Declarant's Easements. The Declarant reserves unto itself and Developers those easements more fully set forth in Article 2.3 above, for the purpose of

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implementing the overall development of the Property , including, without limitation, the planning, construction, marketing, leasing, management and maintenance of any of the Property. All rights and easements in favor of the Owners and Member Associations created by this Declaration shall be subject and subordinate to the above described development rights and easements as more fully set forth in Article 2.3 above, whether or not inconvenience to any Owner or Member Association shall result therefrom.

- 7.3 Contracts. The Declarant or Developer shall have the right to enter into contracts on behalf of the Master Association prior to the Transfer Meeting. Declarant reserves the right for itself, the Developer or their successors and or assigns to engage an initial manager for the Master Association, which manager may be an affiliate of Declarant or Developer and in furtherance of such right, to enter into a contract with any such management company for such purposes, provided that the contract expires no later than two (2) years from the Transfer Meeting. Such management contract, if any, shall be paid for out of the Common Expenses.
- 7.4 Right to Grant and Allow Dedications and Grant Utility Easements. Declarant hereby reserves, for itself and Developers, and their successors and assigns, the following: (a) the right to grant and allow the dedication of space in the Property or on the Property, including without limitation the Common Easement Areas, to any public or quasi public utility or to any governmental authority for the location of Utilities serving any portion of the Property or the Additional Property; (b) the right to grant and allow easements in, over, under to and across the Property, including without limitation the Common Easement Areas, for ingress and egress to, and for installation, construction and maintenance of, any or all of the Utilities; provided, however, that Declarant shall not exercise any of such rights in a manner so as to prevent the exercise of the rights of use and enjoyment of the Property as granted in this Declaration.
- 7.5 Amendments by Declarant. Declarant hereby reserves to itself, its successors and assigns, the following rights:
- (a) Amendment: Until the Transfer Meeting, the Declarant or its successors and assigns shall have the right to change or modify this Declaration; provided that except as provided in Article 9.2 below, such amendment shall be executed only to (i) comply with the requirement of the Federal Home Loan Mortgage Corporation, the Veterans Administration, the Federal National Mortgage Association, the Federal Housing Authority or any similar entity; (ii) comply with any statutes laws or ordinances; (iii) correct clerical or typographical errors or omissions; (iv) comply with the requirements of any holder of a first mortgage of Declarant regarding the Property or a Parcel therein; (v) to amend the Delegated Duties attached hereto as Exhibit C; (vi) to attach a separate Exhibit providing the legal description of, or a Plat of Easements depicting, the Common Easement Areas; (vii) to include any architectural controls that Declarant deems necessary to preserve the overall continuity, value and enjoyment of the Deming Row

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Development Property; or (vi) to facilitate the exercise any of Declarant's rights set forth in this Declaration. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make any change or modification as authorized hereunder on behalf of each Owner and mortgagee as attorney and fact for such Owner and mortgagee. Each deed, mortgage, trust deed, or other evidence of obligation affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of and a covenant and reservation of the power of the Declarant as aforesaid. Any such amendments shall become effective upon recording in the office of the Recorder of Deeds for Cook County, Illinois.

- 7.6 Release and Termination of Declaration by Declarant: In the event it should be determined, in Declarant's sole discretion, that each Member Association along with the Owner(s) of any Apartment Parcel will separately maintain their respective portions of the Common Easement Areas, then Declarant may terminate this instrument by recording a release and termination of Declaration, whereupon all rights, duties, and liabilities created hereby shall terminate. Such instrument shall run to the "owner or owners and parties interested" in the Property.

Until such time as Declarant and Developers no longer hold title to any portion of the Property as applicable, Declarant hereby reserves the aforesaid right, without first obtaining the consent of any successors in interest or assigns and/or any owners of condominium units constructed upon the Property or such condominium associations, or any other party holding an interest in the Property or portions thereof. In furtherance of the foregoing, a power coupled with an interest is hereby reserved by Declarant to record any such release and termination of Declaration, on behalf of and without the consent of any parties' holding an interest in the Property or portions thereof, including without limitation, any Owners of condominium units or any such parties' mortgagees. Any such release and termination of Declaration shall become effective upon recording in the office of the Recorder of Deeds for Cook County, Illinois.

ARTICLE VIII RESERVED

ARTICLE IX GENERAL PROVISIONS

- 9.1 Severability. The invalidity of all or any portion of any of the covenants, restrictions, easements, conditions, reservations, liens and charges imposed by this Declaration, by legislation, judgment or court order shall in no way affect any other provisions of this Declaration, all of which shall remain in full force and effect and are hereby declared to be severable.

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- 9.2 Amendment. The provisions of this Declaration may be amended by an instrument executed and acknowledged by the Board and approved by not less than three-fourths (3/4) of the available votes of the Members of the Master Association, and containing an affidavit by an officer of the Board certifying that a copy of the amendment has been mailed by certified mail to all mortgagees having bona fide liens on record against any Unit, no less than five (5) days prior to the date of such affidavit. No amendment affecting the right of any the holder of any eligible mortgage on a Unit shall be made without the consent of such mortgagee or holder. No amendment affecting any rights or easements reserved by Declarant shall be made without the consent of Declarant. No amendment affecting any easement rights created in Article II shall be made without the consent of each and every party benefited by such easements. No amendment shall be effective unless recorded in the office of the Recorder of Deeds of Cook County, Illinois. Those provisions of this Declaration relating to the rights, privileges or obligations of the Declarant may only be amended upon the prior written consent of the Declarant. This Declaration may be amended by the Declarant in any manner prior to the conveyance by Declarant of any Unit to any other Owner.
- 9.3 Assignments. All rights which are specified in this Declaration to be rights of the Declarant are mortgageable, pledgeable, assignable and transferable. Any successor to, or assignee of, the rights of the Declarant hereunder (whether as a result of voluntary assignment, foreclosure, assignment in lieu of foreclosure or otherwise) shall hold and be entitled to exercise the rights of Declarant hereunder as fully as if named as such party herein. No party exercising rights as Declarant hereunder shall have or incur any liability for the acts of any other party that previously exercised or subsequently shall exercise such rights. In the event Declarant assigns or transfers Declarant's rights specified in this Declaration, Declarant shall cause to be recorded in the Recorder of Deed's Office in Cook County, Illinois an agreement, in form to be in Declarant's sole discretion, identifying the Declarant's assignee and, until such time as any subsequent document may be recorded, any such newly defined Declarant shall be considered the Declarant for all purposes hereunder.
- 9.4 Arbitration. Any controversy between Owners or any claim by an Owner against the Master Association or another Owner, or against a Member Association by another Member Association, arising out of or relating to the Master Declaration or the rules and regulations of the Board may be settled by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof.
- 9.5 Enforcement. Enforcement by the Master Association or any Owner or Member Association (including Declarant) of the covenants and restrictions contained in this Master Declaration shall be had by any proceeding at law or in equity against

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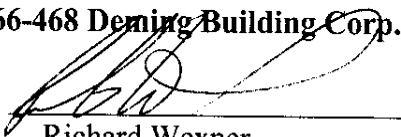
any person or persons violating or attempting to violate any such covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Master Association or any Owner or Member Association (including Declarant) to enforce any covenant or restriction shall in no event be deemed a waiver of the right to do so thereafter.

- 9.6 Notices. Any notice required to be sent to any Owner or to a Member Association under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Member Association or Owner as it appears on the records of the Master Association at the time of such mailing.
- 9.7 Title holding Land Trust. In the event title to any Unit is conveyed to a title holding trust, under the terms of which all power of management, operation and control of such Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Unit. No claim shall be made against any such title holding trustee personally for the payment of any lien or obligations hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon such Unit and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Unit.
- 9.8 Duration. The covenants, restrictions, conditions, reservations, liens and charges imposed or established by or created under this Master Declaration shall run with and bind the land for a period of forty (40) years from the date of the recording of this Master Declaration. After the expiration of said forty (40) year period, all of such covenants, restrictions, conditions, reservations, liens and charges shall continue to run with and bind the land for successive periods of ten (10) years each unless revoked, changed or amended in whole or in part, by an instrument in writing which is executed by the Owners of not less than two-thirds of the Units and recorded in the office of the Recorder of Deeds for Lake County, Illinois. Except in the case of condemnation or destruction or a substantial portion of the Units, the legal status of the Master Association shall not be terminated without the affirmative vote of not less than Sixty Seven percent (67%) of the holders of eligible mortgages on the Units.
- 9.9 Captions. The Article and Paragraph headings used herein are intended for convenience only and shall not be construed with substantive effect in this Declaration.

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IN WITNESS WHEREOF, the Declarants have caused these presents to be signed each by an authorized member as of the day and year first above written.

BY: 458-466-468 Deming Building Corp., an Illinois corporation


BY: 
Richard Wexner
Its: President

BY: 460-462 Deming Building, LLC, an Illinois limited liability company

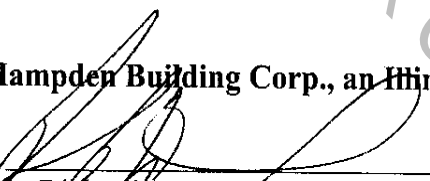
BY: 
Richard Wexner, a Manager

BY: _____
Harold Lichterman, a Manager

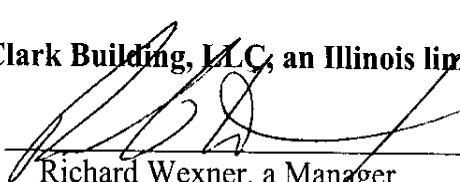
BY: 454-456 Deming Building Corp., an Illinois corporation

BY: 
Richard Wexner
Its: President

BY: 2600 Hampden Building Corp., an Illinois corporation

BY: 
Richard Wexner
Its: President

BY: 2545 Clark Building, LLC, an Illinois limited liability company

BY: 
Richard Wexner, a Manager

BY: _____
Harold Lichterman, a Manager

UNOFFICIAL COPY

IN WITNESS WHEREOF, the Declarants have caused these presents to be signed each by an authorized member as of the day and year first above written.

BY: 458-466-468 Deming Building Corp., an Illinois corporation

BY: _____
Richard Wexner
Its: President

BY: 460-462 Deming Building, LLC, an Illinois limited liability company

BY: _____
Richard Wexner, a Manager

BY: _____
Harold Lichterman, a Manager

BY: 454-456 Deming Building Corp., an Illinois corporation

BY: _____
Richard Wexner
Its: President

BY: 2600 Hampden Building Corp., an Illinois corporation

BY: _____
Richard Wexner
Its: President

BY: 2545 Clark Building, LLC, an Illinois limited liability company

BY: _____
Richard Wexner, a Manager

BY: _____
Harold Lichterman, a Manager

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I HEREBY CERTIFY that on this ___ day of _____, 200_, before me personally appeared **Richard Wexner**, in the capacity or capacities noted on the previous page(s) and to me known to be the same person who signed the foregoing instrument as such persons' free act and deed as such officer for the use and purpose therein mentioned, and that the said instrument is the act and deed of such company or corporation.

Given under my hand and notarial seal this _____ day of _____, 200_.

Notary Public: _____

My Commission expires: _____

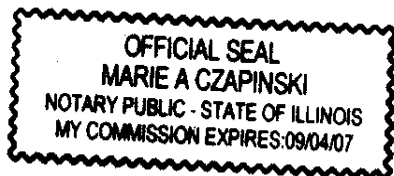
STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I HEREBY CERTIFY that on this 8th day of AUGUST, 2005, before me personally appeared **Harold Lichterman**, in the capacity or capacities noted on the previous page(s) and to me known to be the same person who signed the foregoing instrument as such persons' free act and deed as such officer for the use and purpose therein mentioned, and that the said instrument is the act and deed of such company or corporation.

Given under my hand and notarial seal this 8th day of AUGUST, 2005.

Notary Public: Marie A Czajkowski

My Commission expires: 9-4-2007



UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I HEREBY CERTIFY that on this 9th day of August, 2005, before me personally appeared **Richard Wexner**, in the capacity or capacities noted on the previous page(s) and to me known to be the same person who signed the foregoing instrument as such persons' free act and deed as such officer for the use and purpose therein mentioned, and that the said instrument is the act and deed of such company or corporation.

Given under my hand and notarial seal this 9th day of August, 2005.

Notary Public: _____

My Commission expires: 10/29/07



STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I HEREBY CERTIFY that on this _____ day of _____, 200__, before me personally appeared **Harold Lichterman**, in the capacity or capacities noted on the previous page(s) and to me known to be the same person who signed the foregoing instrument as such persons' free act and deed as such officer for the use and purpose therein mentioned, and that the said instrument is the act and deed of such company or corporation.

Given under my hand and notarial seal this _____ day of _____, 200__.

Notary Public: _____

My Commission expires: _____

UNOFFICIAL COPY

CONSENT OF MORTGAGEE

MB Financial Bank, NA, ("Bank") holder of a note secured by a mortgage on the Property recorded with the Recorder of Deeds of Cook County, Illinois, on January 13, 2005 as Document No. 0501319112, hereby consents to the execution of and recording of the foregoing Declaration of Easements, Covenants and Restrictions for the Deming Row Development Master Association, and hereby agrees that the aforesaid loan documents are subject and subordinate to the provisions thereof, but reserves for itself and its successors and assigns the rights and privileges of a First Mortgagee under and pursuant to the terms and conditions of the foregoing Declaration of Easements, Covenants and Restrictions for the Deming Row Development Master Association.

IN WITNESS WHEREOF, Bank has caused this instrument to be signed by its duly authorized officer on its behalf on this 10th day of August, 2005.

MB Financial Bank, NA

By: Christina K Frank

Name: CHRISTINA K. FRANK

Title: VICE PRESIDENT

Attest: William Ber

ITS: VICE PRESIDENT

STATE OF ILLINOIS)

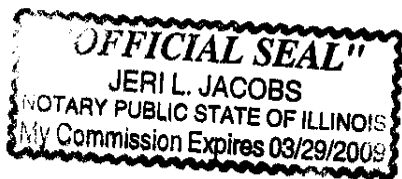
)SS

COUNTY OF COOK)

I, the undersigned a Notary Public in and for said County and State do hereby certify that CHRISTINA K FRANK and WILLIAM BER who is/are personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that such person signed and delivered said instrument as such person's free and voluntary act, and as the free and voluntary act of the Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 11th day of AUGUST, 2005.

Jeri L Jacobs
Notary Public
(SEAL)



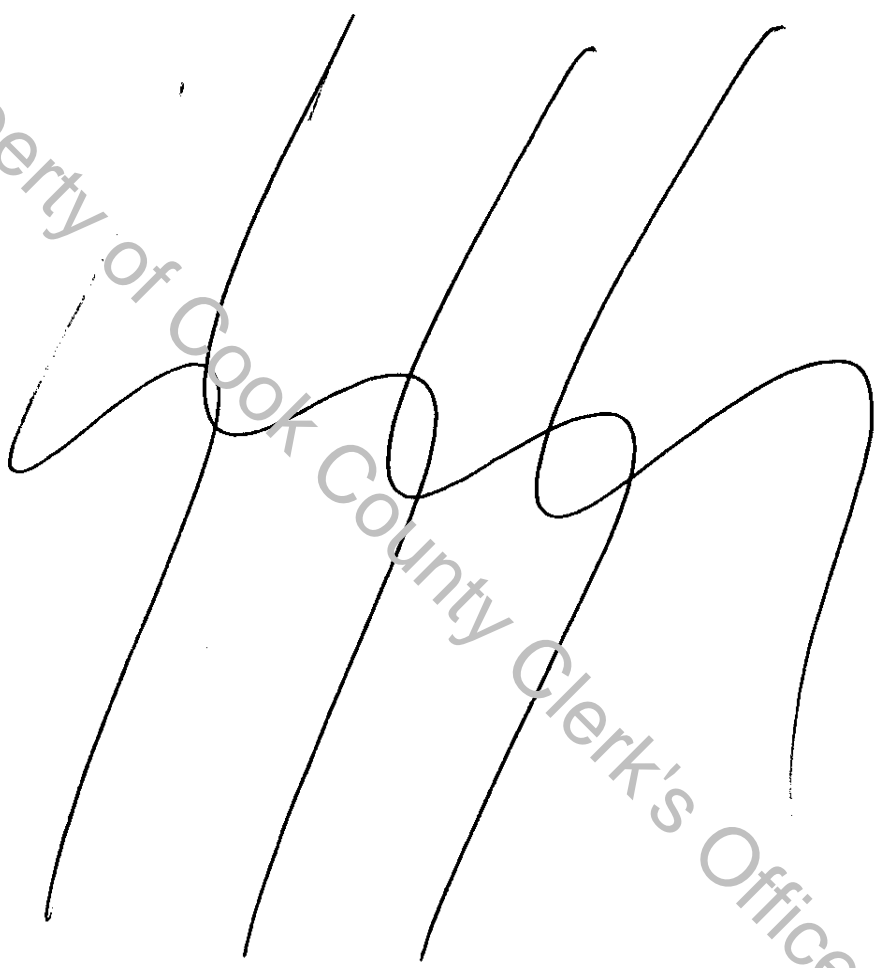
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Exhibit A

LEGAL DESCRIPTION OF THE DEMING ROW DEVELOPMENT PROPERTY

ATTACHED HERETO

Property of Cook County Clerk's Office



UNOFFICIALLEGAL DESCRIPTION
DEMING ROW DEVELOPMENT
PROPERTY

(466-468 West Deming Place)

Parcel 1: The Easterly 50 feet of Lots 1, 2 and 3 of the Subdivision of part of Outlot "B", except the South 320 feet, in Wrightwood, a Subdivision of the Southwest Quarter of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

(460-462 West Deming Place)

Parcel 2: Lot 52 and the Westerly 5 feet of Lot 51 in Deming's Subdivision of Outlot "B", except the South 320 feet thereof, in Wrightwood, a Subdivision of the Southwest Quarter of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

(458 West Deming Place)

Parcel 3a: The Northeasterly 25 feet of the Southwesterly 30.00 feet of Lot 51, except the Northwesterly 15 feet thereof, in the Subdivision of part of Outlot "B" in Wrightwood, being a Subdivision of the Southwest Quarter of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 3b: The Northeasterly 25 feet of the Southwesterly 30 feet of the Northwesterly 15.00 feet of Lot 51, in the Subdivision of part of Outlot "B" in Wrightwood, being a Subdivision of the Southwest Quarter of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

(454-456 West Deming Place)

Parcel 4a: The Southwesterly 34 feet of Lot 50 and Lot 51, except the Southwesterly 30.00 feet thereof, in the Subdivision of part of Outlot "B" in Wrightwood, being a Subdivision of the Southwest Quarter of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 4b: That part of Lot 8, except the Northwesterly 44.00 feet thereof, in the Subdivision of Block 3 in Outlot "A", of Wrightwood, being a Subdivision of the Southwest Quarter of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, lying Southwesterly of the Northwesterly extension of the Northeasterly line of the Southwesterly 34.00 feet of Lot 50 in the Subdivision of part of Outlot "B" in Wrightwood, being a Subdivision of the Southwest Quarter of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, all in Cook County, Illinois.

(2600 North Hampden Court)

Parcel 5a: Lot 48 except the Easterly 16.0 feet thereof; all of Lot 49 and the Easterly 16.0 feet of Lot 50 in the Subdivision of Block 3 in Outlot "B" in Wrightwood, a Subdivision in the Southwest Quarter of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 5b: The Easterly 100.0 feet of Lot 8, except the Northerly 44.0 feet thereof, in the Subdivision of part of Outlot "A" in Wrightwood, a Subdivision of the Southwest Quarter of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

(2545-2549 North Clark Street)

Parcel 6: The Westerly 150 feet of Lot 1 and the Westerly 150 feet of the Northerly Half of Lot 2 in the Subdivision of the North part of Outlot "B" in Wrightwood, a Subdivision of the Southwest Quarter of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

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Parcel 1 14-28-318-081

Parcel 2 14-28-318-079

Parcel 3 14-28-318-082

Parcel 4 14-28-318-080

Parcel 5 14-28-318-045

Parcel 6 14-28-318-044

Parcel 7 14-28-318-010

Parcel 8 - 14-28-318-080

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Exhibit B

ALLOCATION OF PERCENTAGES FOR THE DEMING ROW MASTER ASSOCIATION

2600 N. Hampden, Chicago	57%
454-456 W. Deming, Chicago	9%
460-462 W. Deming, Chicago	8%
2549-49 N. Clark Street, Chicago	14%
466-468 W. Deming, Chicago	7%
458 W. Deming, Chicago	5%

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT C

DELEGATED DUTIES

Until such time as this Exhibit C may be amended in accordance with this Declaration at a meeting duly called for such purpose, the Owners and or Member Association(s), as may be applicable, hereby delegate the following powers and duties to the Master Association:

1. The Master Association shall negotiate and is authorized to enter into, on behalf of any Owner or Member Association, contracts or agreements to provide scavenger service for any Condominium Building or Apartment Building.
2. The Master Association shall negotiate and is authorized to enter into, on behalf of any Owner or Member Association, contracts or agreements for the maintenance and upkeep of any Common Easement Areas, including portions of the parking lot or driveways located on any Condominium Parcel or Apartment Parcel, sidewalks located upon any Condominium or Apartment Parcel, including, but not limited to, snow removal from said parking lot, driveways or sidewalks.

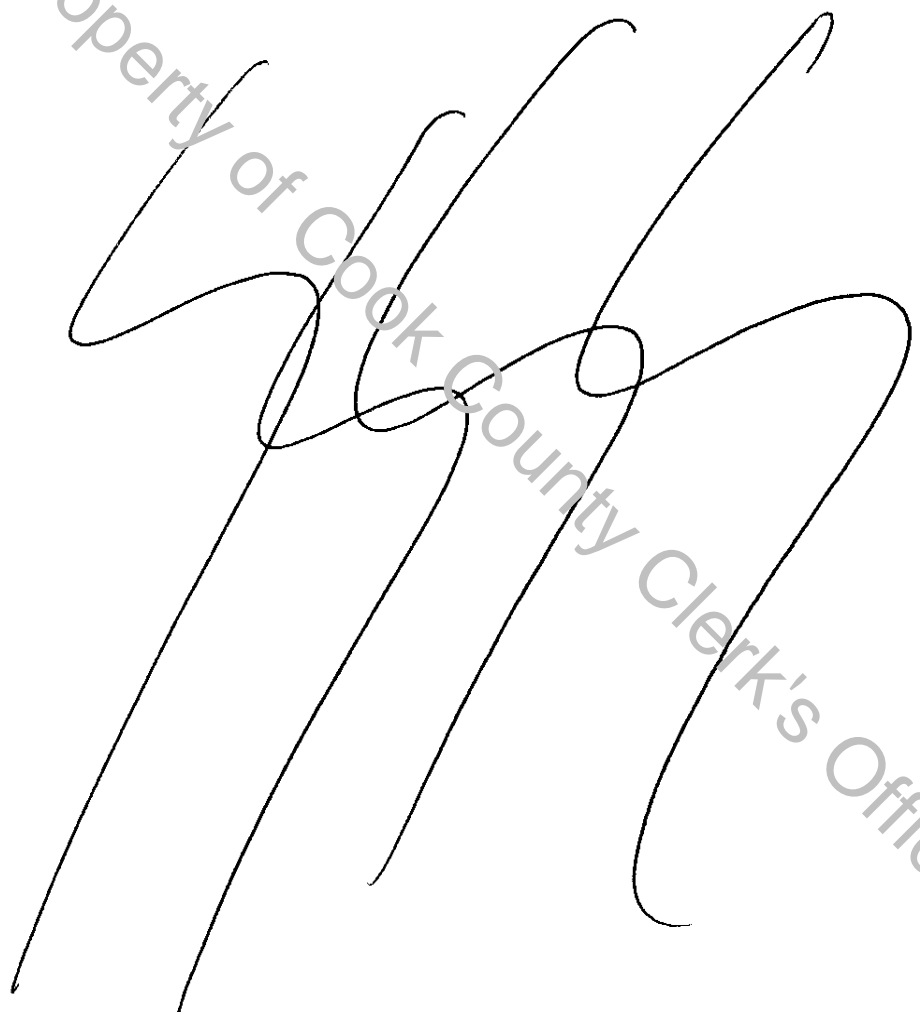
UNOFFICIAL COPY

Exhibit D

PLAT OF SURVEY

OF THE DEMING ROW DEVELOPMENT PROPERTY

Property of Cook County Clerk's Office



UNOFFICIAL COPY

EXHIBIT

ATTACHED TO

Pg - 39

Ex - 1

Total - 40

DOCUMENT

SEE PLAT INDEX