



This instrument prepared by
and mail to:

Doc#: 0624032010 Fee: \$96.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 08/28/2006 10:00 AM Pg: 1 of 37

John E. Lovestrand
PALMISANO & LOVESTRAND
19 South LaSalle Street
Suite 900
Chicago, Illinois 60603

MTC # 206 6169
JH

OPERATING DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
SHAKESPEARE PLACE

THIS OPERATING DECLARATION ("Declaration") is made and entered into by
J & J CONSULTANTS II, INC., an Illinois corporation (the "Declarant").

WITNESSETH

WHEREAS, Declarant is the owner of the Total Parcel (as defined herein) situated in
Chicago, Cook County, Illinois and legally described in Exhibit "A", which is attached hereto
and made a part hereof;

WHEREAS, the Total Parcel is presently improved with a mixed use, multi-story
building;

WHEREAS, subsequent to the submission of the Residential Property (as defined herein)
to the terms and conditions of a Declaration of Condominium Ownership and of Easements,
Restrictions, Covenants and By-Laws for the **Shakespeare Place Condominiums** and the
conveyance of the Commercial Property (as defined herein) to the Commercial Owner (as
defined herein) neither the Residential Property nor the Commercial Property will be functionally
independent of the other and each will depend upon the other, to some extent, for structural
support, enclosure, ingress and egress, utility services or other facilities and components
necessary for the efficient operation and intended use of each of the properties; and

WHEREAS, the Declarant desires by this Declaration to provide for the efficient
operation of each respective portion, estate and interest in the Total Property, to assure the

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harmonious relationship of the owners of each such respective portion, estate or interest in the Total Property, and to protect the respective values of each such portion, estate and interest in the Total Property, by providing for, declaring and creating certain easements, covenants and restrictions against and affecting the Total Property which will be binding upon each present and future owner of the Total Property or of any portion thereof or interest or estate therein, and which will inure to the benefit of each of the present and future owners, to the extent provided herein.

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

ARTICLE 1

DEFINITIONS

1.1 Act. "Act" means the Condominium Property Act of the State of Illinois in effect on the date hereof, as amended from time to time. For purposes hereof, the phrase "submission to the Act" shall include the subdivision of a portion(s) of any Parcel, whether or not actually submitted to the Act.

1.2 Architect. "Architect" shall have the meaning set forth in Article 8 hereof.

1.3 Building. "Building" means all improvements on the Total Parcel, including but not limited to the building and Facilities.

1.4 Commercial Improvements. "Commercial Improvements" means all improvements constructed within and upon the Commercial Parcel. In the event of any reconstruction of the Commercial Improvements, the Commercial Improvements shall include any such improvements reconstructed on the Commercial Parcel.

1.5 Commercial Parcel. "Commercial Parcel" means that portion of the Total Parcel legally described on Exhibit "B" attached hereto.

1.6 Commercial Property. "Commercial Property" means the Commercial Parcel improved with the Commercial Improvements.

1.7 Commercial Property Common Facilities. "Commercial Property Common Facilities" means all Facilities, equipment and areas within the Commercial Property intended

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generally for the common use of the tenants, owners or occupants of part or all of the Commercial Property.

1.8 Common Elements. “Common Elements” means all portions of the Total Property submitted from time to time to the Act pursuant to the Condominium Declaration, except the Units.

1.9 Common Walls, Floors and Ceilings. “Common Walls, Floors and Ceilings” means all common structural and partition walls, floors and ceilings situated on or adjoining the Parcels, or located on one Parcel but forming the walls, floors or ceilings of another Parcel.

1.10 Condominium Association. “Condominium Association” means an Illinois not-for-profit corporation to be formed for the purpose of administering the Condominium Property pursuant to the Act, which term shall also include, for purposes hereof, any type of property owners association.

1.11 Condominium Declaration. “Condominium Declaration” means any declaration of condominium ownership and of easements, restrictions, covenants and by-laws including any and all amendments thereto which submits any portion of the Total Property to the provisions of the Act, which term shall also include, for purposes hereof, any type of property declaration that provides for the management of a Parcel by an association of the owners of such Parcel.

1.12 Condominium Improvements. “Condominium Improvements” means the Residential Improvements after submission of such the Residential Parcel to the Act.

1.13 Condominium Property. “Condominium Property” means that portion (the Residential Property) of the Total Property, from and after its submission to the Act.

1.14 Creditor Owner. “Creditor Owner,” except where otherwise defined hereunder in a specific context, means an Owner to which a payment of money or other duty or obligation is owed under this Declaration by Defaulting Owner which has failed to make such payment or to perform such duty or obligation as and when required hereunder.

1.15 Declarant. “Declarant” shall include the successors and assigns of Declarant, or either of them, as defined above.

1.16 Declaration. “Declaration” means this Operating Declaration, including all exhibits, amendments and supplements thereto; this Operating Declaration is referred to in the Condominium Declaration as the Restrictive Covenant.

1.17 Defaulting Owner. “Defaulting Owner,” except where otherwise defined hereunder in a specific context, means an Owner which has failed to make a payment of money owed under this Declaration to Creditor Owner or to perform any of its duties or obligation as and when required hereunder.

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1.18 Emergency Situation. “Emergency Situation” means a situation impairing or imminently likely to impair structural support of the Building or causing or imminently likely to cause bodily injury to persons or substantial physical damage to the Total Property or any property in, on, under, within, upon or about the Total Property. The duration of an Emergency Situation shall be deemed to include the time reasonably necessary to remedy the Emergency Situation.

1.19 Facilities. “Facilities” means all components of the chilled and heating hot water, condenser water, central air handling and fan, temperature control, domestic water, fire protection, sanitary waste, storm water, electrical, gas, life safety, cable television system, master antenna, emergency power, telephone, elevator, loading dock, trash removal and other utility systems forming a part of the Building and designed or utilized to furnish utility and other services to any portion of the Building, including but not limited to: annunciators, antennae, boilers, boxes, brackets, cabinets, cables, chutes, coils, compactors, compressors, computers, conduits, controls, control centers, cooling towers, couplers, dampers, devices, ducts, elevator cars, elevator rails, equipment, fans, fixtures, generators, grease traps, hangers, heat traces, heat exchangers, indicators, junctions, lines, machines, meters, motors, outlets, panels, pipes, pumps, radiators, risers, starters, switches, switchboards, systems, tanks, transformers, valves, wiring and the like, whether now existing or later constructed.

1.20 Improvements. “Improvements” means the Residential Improvements and Commercial Improvements.

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

1.22 Mortgage. “Mortgage” means a mortgage or trust deed in the nature of a mortgage on the Residential Property or the Commercial Property, but shall not include a mortgage or trust deed on a Unit in the Residential Property or the Commercial Property, if any of them are submitted to the Act.

1.23 Mortgagee. “Mortgagee” means the holder of a Mortgage.

1.24 Owner. “Owner” means either the owner of the Residential Property or the Owner of the Commercial Property, as the context requires. “Owners” means the Owner of the Residential Property and the Owner of the Commercial Property.

1.25 Owner of the Commercial Property. “Owner of the Commercial Property” means the person or entity (or persons or entities if more than one) at any time in question, holding fee simple title to the Commercial Property.

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- 1.26 Owner of the Residential Property. “Owner of the Residential Property” means the person or entity (or persons or entities if more than one) at any time in question holding fee simple title to the Residential Property. If and so long as the Residential Property, or any portion thereof, has been submitted to and remains subject to the provisions of the Act, the Owner of the Residential Property shall mean collectively all of the Unit Owners in and to the Residential Property and not individually.
- 1.27 Recorder. “Recorder” means the Recorder of Deeds of Cook County, Illinois.
- 1.28 Residential Improvements. “Residential Improvements” means all improvements within the Residential Parcel.
- 1.29 Residential Parcel. “Residential Parcel” means that portion of the Total Parcel legally described on Exhibit “C” attached hereto.
- 1.30 Residential Property. “Residential Property” means the Residential Parcel and the Residential Improvements.
- 1.31 Parcel. “Parcel” means any of the Commercial Parcel or Residential Parcel.
- 1.32 Total Parcel. “Total Parcel” means the parcel of real estate legally described on Exhibit “A” attached hereto.
- 1.33 Total Property. “Total Property” means the Residential Property and the Commercial Property.
- 1.34 Unit. “Unit” means any portion of the Total Property submitted to the Act described as a “Unit” in a Condominium Declaration.
- 1.35 Unit Owner. “Unit Owner” means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit Ownership.
- 1.36 Unit Ownership. “Unit Ownership” means a part of any portion of the Total Property submitted to the Act consisting of one (1) Unit and the undivided interest in the Common Elements attributable thereto.
- 1.37 Wall Sign Easement. “Wall Sign Easement” means the exclusive easement granted to the Owner of the Commercial Property to place wall signs on or about the exterior of the Building, which areas are illustratively depicted on Exhibit “E” attached hereto, and which easement is more fully set forth in Article 3, Section 3.1 (I) hereof.**

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ARTICLE 2

EASEMENTS IN FAVOR OF RESIDENTIAL PROPERTY

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

- (a) A non-exclusive easement in and to all structural members, footings, caissons, foundations, columns and beams and any other supporting components located in or constituting a part of the Commercial Property, for the support of (i) the Residential Improvements and (ii) any Facilities located in the Commercial Property with respect to which the owner of the Residential Property is granted an easement under this Declaration.
- (b) A non-exclusive easement for the use for their intended purposes of all Facilities located in the Commercial Property (and any replacements thereof) which provide or shall be necessary or desirable to provide the Residential Property with any utilities or other services or which may otherwise be necessary or desirable to the operation and use and enjoyment of the Residential Property.
- (c) A non-exclusive easement permitting encroachments in the event and to the extent that, by reason of the original construction, any construction between the date of original construction and the date hereof or any additional construction, reconstruction or replacement of any part of the Building or the subsequent settlement or shifting of any part of the Building, any part of the Residential Improvements encroaches or shall hereafter encroach upon any part of the Commercial Property. Such easement permitting encroachments shall exist only as long as the encroaching portion of the Residential Improvements continues to exist.
- (d) A non-exclusive easement for pedestrian and vehicular ingress and egress to and from, over, on, across and through the Commercial Property.
- (e) A non-exclusive easement for ingress and egress and maintenance for persons, material and equipment over, on, across and through the Commercial Property to the extent reasonably necessary to permit the construction, maintenance, repair, replacement, restoration or reconstruction of the Residential Property and Facilities, or to the extent reasonably necessary to exercise the easements set forth in this Section 2.1.
- (f) A non-exclusive easement for pedestrian ingress and egress to, from and across, on and over all stairways located within the Commercial Property that provide access, ingress and egress to and from the Residential Property through the Commercial Property.
- (g) A non-exclusive easement for pedestrian ingress and egress from and to public roadways over, on, across and through the driveways, sidewalks, ramps, curbs and roadways

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contained in and about the Commercial Property, as may be necessary for the use and maintenance of the Residential Improvements.

(h) A non-exclusive easement for the use of the elevator shafts and rails attached thereto located in or passing through the Commercial Property, if any, which elevator shafts and rails house and guide those elevators which are owned by the owner of the Residential Property and connect the Residential Improvements with the first floor of the Building.

(i) A non-exclusive easement for ingress, egress and access to, and the use of, any service areas and delivery entrances located in, on or about the Commercial Property for shipping and delivery and similar purposes.

(j) A non-exclusive easement for the maintenance of any rubbish chutes and containers serving the Residential Property to the extent such rubbish chutes pass through the Commercial Property.

(k) Non-exclusive easements for pedestrian ingress and egress over, across and upon the common hallways and other Common Areas of the Commercial Property to the extent reasonably necessary to provide access to the commercial facilities located within and upon the Commercial Property.

(l) A non-exclusive easement for the use and maintenance of all smoke towers passing through the Commercial Property.

(m) A non-exclusive easement through and across Commercial Property for access to and maintenance of storm water drain lines and ejector pumps located in or passing through the Commercial Property.

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

2.2 Limitations. Each Easement created under this Article 2 which provides or requires, for its enjoyment, ingress and egress on, over, across or through the Commercial Property shall be subject (except in an Emergency Situation) to such reasonable limitations as the owner of the Commercial Property may, from time to time after consultation with the Owner of the Residential Property, impose with respect to the establishment of limited paths of ingress and egress and limited hours of the day or days of the week during which such Easements may be used to prevent any unreasonable interference with the use and operation of the applicable portion of the Commercial Property and in order to assure the reasonable security of the applicable portion of the Commercial Property; provided, however, that any such limitations shall not preclude or unreasonably restrict enjoyment or exercise of any easement.

2.3 Binding Effect. Easements provided for, declared or created under this Article 2 shall be binding upon the Commercial Property and the owner of the Commercial Property and

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shall run in favor of and inure to the benefit of and be appurtenant to the Residential Property and each portion thereof.

2.4 Easements to Run in Favor of Condominium Property. In the event of the submission of the Residential Property to the Act, then all of the Easements granted under Section 2.1 hereof shall inure to the benefit of the Condominium Property and shall be part of the Common Elements attributable to the Condominium Property.

2.5 Restoration. The grantee of any easement hereunder affecting the Total Property or any portion thereof shall perform any construction, installation, maintenance, operation, replacement and/or removal pursuant to such easement in a manner as to cause as little disturbance in the use and enjoyment of the affected portion of the Total Property and surrounding areas as may be practical under the circumstances. Notwithstanding anything to the contrary herein, the grantee of any easement affecting the Total Property or any portion thereof shall restore or replace, at its sole cost and expense, the adversely affected portion of the Total Property to substantially the same condition as immediately prior to such construction, maintenance, operation, replacement and/or removal. In the event any grantee of an easement does not perform the foregoing restoration or replacement within sixty (60) days after written notice from any Owner, such Owner can perform, or cause to be performed, the restoration or replacement and shall obtain a lien against that portion of the Total Property owned by the Defaulting Owner or its agents.

ARTICLE 3

EASEMENTS IN FAVOR OF COMMERCIAL PROPERTY

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

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

(b) A non-exclusive easement for the use for their intended purposes of all Facilities located in the Residential Property (and any replacements thereof) which provide or shall be necessary or desirable to provide the Commercial Property with any utilities or other services or which may otherwise be necessary or desirable to the operation and use and enjoyment of the Commercial Property.

(c) A non-exclusive easement permitting encroachments in the event and to the extent that, by reason of the original construction, any construction between the date of original

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construction and the date hereof or any additional construction, reconstruction or replacement of any part of the Building or the subsequent settlement or shifting of any part of the Building, any part of the Commercial Improvements encroaches or shall hereafter encroach upon any part of the Residential Property. Such easement permitting encroachments shall exist only as long as the encroaching portion of the Commercial Improvements continues to exist.

(d) A non-exclusive easement for pedestrian and vehicular ingress and egress in an Emergency Situation to and from, over, on, across and through the Residential Property.

(e) A non-exclusive easement for ingress and egress and maintenance, for persons, material and equipment over, on, across and through the Residential Property to the extent reasonably necessary to permit the construction, maintenance, repair, replacement, restoration or reconstruction of the Commercial Property and Facilities, or to the extent reasonably necessary to exercise the easements set forth in this Section 3.1.

(f) A non-exclusive easement for pedestrian ingress and egress to, from and across, on and over all stairways located within the Residential Property that provide access, ingress and egress to and from the Commercial Property through the Residential Property.

(g) A non-exclusive easement for pedestrian ingress and egress from and to public roadways over, on, across and through the driveways, sidewalks, ramps, curbs and roadways contained in and about the Residential Property, as may be necessary for the use and maintenance of the Commercial Improvements.

(h) A non-exclusive easement for the maintenance of any rubbish chutes and containers serving the Commercial Property to the extent such rubbish chutes pass through the Residential Property.

(i) A non-exclusive easement for the use and maintenance of all smoke towers passing through the Residential Property.

(j) A non-exclusive easement through and across the Residential Property for access to and maintenance of storm water drain lines and ejector pumps located in or passing through the Residential Property.

(k) An easement (i) in and to all Common Walls, Floors and Ceilings serving the Commercial Property and (ii) for the use of such Common Walls, Floors and Ceilings.

(l) An exclusive easement in and to the exterior walls of the Building to place or affix or install three (3) wall signs (contemplated for the purpose of marketing and/or advertising) thereon, together with a non-exclusive easement in and to the roof and/or other necessary portions of the common areas of the Building for the purposes of placing, affixing, installing, maintaining, and/or repairing said wall signs. The three (3) wall sign areas affected by this "Wall Sign Easement" are illustratively depicted on Exhibit "E" attached hereto and incorporated herein by reference, as follows:

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- (i) **East Facing Elevation: Highest top portion of the staircase tower area, between lime stone copping and highest staircase window, with dimensions of approximately 10' x 10';**
- (ii) **North Facing Elevation: Highest top portion of the east staircase tower area, with dimensions of approximately apx. 10' x 10' ; and**
- (iii) **North Facing Elevation: Tallest portion of the north facing wall, with dimensions of approximately 10' in height and 70' in length.**

(m) **An exclusive easement to install awnings and/or signage (including but not limited to "raised lettering") on the Damen (dimensions not to exceed 3' x 50') and Shakespeare (dimensions not to exceed 3' x 75') sides of the Building, subject to the City of Chicago regulations, and provided however that initial permits therefor are obtained from City of Chicago for any such awnings and/or signage (including but not limited to "raised lettering") and that any renewal permits as required by the City are maintained in connection therewith.**

3.2. Limitations. Each easement created under this Article 3 which provides or requires, for its enjoyment, ingress and egress on, over, across or through the Residential Property shall be subject (except in an Emergency Situation) to such reasonable limitations as the owner of the Residential Property may, from time to time after consultation with the Owner of the Commercial Property, impose with respect to the establishment of limited paths of ingress and egress and limited hours of the day or days of the week during which such Easements may be used to prevent any unreasonable interference with the use and operation of the Residential Property and in order to assure the reasonable security of the Residential Property; provided, however, that any such limitations shall not preclude or unreasonably restrict enjoyment or exercise of any such Easement and provided further that Section 3.1(d) shall not be subject to any such limitation.

3.3 Binding Effect. Easements provided for, declared or created under this Article 3 shall be binding upon the Residential Property and the owner of the Residential Property and shall run in favor of and inure to the benefit of and be appurtenant to the Commercial Property and each portion thereof.

3.4 Submission to Act. In the event of the submission of the Commercial Property to the Act, then all of the easements granted under Section 3.1 hereof shall inure to the benefit of such portion of the Commercial Property and shall be part of the Common Elements attributable to the Condominium Property.

3.5 Restoration. The grantee of any easement hereunder affecting the Total Property or any portion thereof shall perform any construction, installation, maintenance, operation, replacement and/or removal pursuant to such easement in a manner as to cause as little disturbance in the use and enjoyment of the affected portion of the Total Property and surrounding areas as may be practical under the circumstances. Notwithstanding anything to the contrary herein, the grantee of any easement affecting the Total Property or any portion thereof

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shall restore or replace, at its sole cost and expense, the adversely affected portion of the Total Property to substantially the same condition as immediately prior to such construction, maintenance, operation, replacement and/or removal. In the event any grantee of an Easement does not perform the foregoing restoration or replacement within sixty (60) days after written notice from any Owner, such Owner can perform, or cause to be performed, the necessary restoration or replacement and shall obtain a lien against that portion of the Total Property owned by the Defaulting Owner or its agents.

ARTICLE 4

GENERAL EASEMENTS PROVISIONS

4.1 Relocation of Easements. With regard to any portion of the Total Property over which easements have been granted pursuant to Articles 2 and 3 hereof, the Owner of that portion of the Total Property burdened by such easements shall have the right, after consultation with the owner benefitted by such easements, to relocate any such easements in the event comparable alternative means can be substituted to insure the continuation of the benefit granted.

4.2 Limitations. With regard to any portion of the Total Property over which easements have been granted pursuant to Articles 2 and 3 hereof for pedestrian ingress and egress in an Emergency Situation, such easements shall not be deemed to include (a) any portion of a dwelling unit or Unit, (b) the interior of any portions of the Total Property intended to be leased to tenants, or (c) the interior of any portion of the Total Property used for office or retail purposes.

4.3 Restoration. The grantee of any easement hereunder affecting the Total Property or any portion thereof shall perform any construction, installation, maintenance, operation, replacement and/or removal pursuant to such easement in such a manner as to cause as little disturbance in the use and enjoyment of the affected portion of the Total Property and surrounding areas as may be practical under the circumstances. Notwithstanding anything to the contrary therein, the grantee of any easement affecting the Total Property or any portion thereof shall restore or replace, at its sole cost and expense, the adversely affected portion of the Total Property to substantially the same condition as immediately prior to such construction, Maintenance, operation, replacement, and/or removal. In the event any grantee of an easement does not perform the foregoing restoration or replacement within sixty (60) days after written notice from any Owner, such Owner can perform, or cause to be performed, the necessary restoration or replacement and shall obtain a lien against that portion of the Total Property owned by the non-performing grantee or its agents, provided such lien shall be subordinate to the Mortgage of the non-performing grantee's ownership interest.

4.4 Tenants, Guests and Invitees. The easements declared or created pursuant to Articles 2 and 3 shall benefit the owners and their respective tenants, guests and invitees.

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ARTICLE 5

OPERATION OF CONDOMINIUM PROPERTY, RESIDENTIAL PROPERTY AND COMMERCIAL PROPERTY

Each owner shall make a good-faith effort to operate its Facilities and cooperate to secure and furnish all services in a manner so as to provide the Owner of the Residential Property and Owner of the Commercial Property with comfortable occupancy and enjoyment of the Residential Property and the Commercial Property for their respective intended uses.

ARTICLE 6

COMPLIANCE WITH LAWS; REMOVAL OF LIENS; ZONING

6.1 Compliance with Laws. The Owner of the Residential Property and the Owner of the Commercial Property:

(a) shall each comply with all laws, statutes, codes, rules, orders, decrees, ordinances, regulations and requirements now or hereafter enacted or promulgated by the United States of America, State of Illinois, County of Cook, City of Chicago and any other entity or agency now or hereafter having jurisdiction of the Total Property or any portion thereof, if noncompliance by it with respect to its portion of the Total Property or any part thereof would subject the other Owner to civil or criminal liability, or would jeopardize the full force or effect of any certificate of occupancy issued to the other Owner or for the Improvements themselves or would jeopardize the other Owner's right to occupy or utilize beneficially its portion of the Total Property or any part thereof, or would result in the imposition of a lien against any of the property of any other owner or would increase costs of insurance of the other Owner or would impose any threat or danger to any person or property; and

(b) shall each comply with all rules, regulations and requirements of any insurance rating bureau having jurisdiction of the Total Property or any portion thereof or the requirements of any insurance policy affecting insurance coverage on the other Owner's portion of the Total Property if noncompliance by it with respect to its portions of the Total Property or any portion thereof would (i) increase the premiums of any policy of insurance maintained by any other owner or the premiums of any policy of insurance maintained by all owners, or (ii) render the other Owner's portion of the Total Property uninsurable, or (iii) create a valid defense to the other Owner's right to collect insurance proceeds under policies insuring the other Owner's portion of the Total Property; provided further, however, that if such compliance is hereafter required solely because of the nature of the use, possession or management of or activities in the other Owner's portion of the Total Property, such other Owner shall be liable for the cost and expense of such compliance. If at any time any Owner so obligated to comply shall not proceed diligently with any such compliance and such failure to proceed shall adversely and materially affect the other Owner, then the Creditor Owner may give written notice to the Defaulting owner specifying the respect or respects in which the cure of such noncompliance is not proceeding

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diligently and if upon expiration of ten (10) days after the receipt of such notice, any such cure of the noncompliance is still not proceeding diligently, then the Creditor Owner may cause such compliance to occur by taking all appropriate steps to carry out the same. The Creditor Owner shall be entitled to reimbursement upon demand from the Defaulting owner for all costs and expenses incurred by the Creditor Owner in connection with causing any such compliance to occur.

6.2 Removal of Liens. Each Owner shall remove, within thirty (30) days after the filing thereof, any mechanics', materialmen or any other like lien on the other Owner's portion of the Total Property, or on its portion of the Total Property if the existence or foreclosure of such lien on its portion of the Total Property would adversely affect any easement or provision hereunder, arising by reason of its act or any work or materials which it has ordered. Notice of the filing of any such lien shall be served upon the Mortgagees. Any Owner which has caused such a lien to be filed shall be deemed a Defaulting Owner hereunder. In the event any Defaulting Owner fails to remove any such lien within such thirty (30) day period, any Creditor Owner may (but is not required to) take such action as the Creditor Owner may deem necessary to remove such lien. The Creditor Owner shall be entitled to reimbursement from the Defaulting Owner for all costs and expenses incurred by the Creditor Owner in removing or attempting to remove such lien. However, the Defaulting Owner shall not be required to remove such lien within thirty (30) days after the filing hereof (and the Creditor Owner shall not be entitled to remove such lien), provided that (i) the continuance of such lien shall not constitute a default under the documents securing the Mortgages; (ii) within said thirty (30) day period foreclosure proceedings relating to such lien cannot be completed; and (iii) the Defaulting Owner (A) shall in good faith diligently proceed to contest the same by appropriate proceedings and shall give written notice to the Creditor Owner (and to the Mortgagees if required by applicable loan documents) of its intention to contest the validity or amount of such lien and (B) shall deliver to the Creditor Owner or, if loan documents so provide, to the Mortgagees, either: (i) cash or a surety bond from a responsible surety company acceptable to the Creditor Owner and the Mortgagees, if applicable, in an amount equal to one hundred fifty percent (150%) of the lien claim and all interest and penalties then accrued thereon or such greater amount as may reasonably be required to assure payment in full of the amount claimed, plus all penalties, interest and costs which may thereafter accrue by reason of such lien claim or (ii) other security reasonably acceptable to the Creditor Owner and the Mortgagees of the Mortgages, if applicable. The rights of the Defaulting Owner under the receding sentence to contest such lien without discharging the same shall terminate if (i) the Defaulting Owner fails to contest diligently and continuously, (ii) final judgment is entered on behalf of the lien claimant or (iii) the existence of such liens shall constitute a default under the Mortgages, and in such event the Defaulting owner shall cause such lien to be discharged or removed within ten (10) days after the occurrence of either of the events in clauses (i), (ii) or (iii) in this sentence and the Creditor Owner shall have the right (but not the obligation) at any time to remove such lien and in such event be entitled to reimbursement in accordance with the applicable provisions hereunder.

6.3 Indemnification. Each Owner (hereinafter in this Section 6.3, the "Indemnifying Owner") covenants and agrees, at its sole cost and expense, to indemnify and hold harmless the other Owner (hereinafter in this Section 6.3, the "Indemnitee") from and against any and all

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

6.4 Zoning. Without limiting the provisions above, neither the Owner of the Residential Property or the Commercial Property shall make any Alterations (as that term is hereinbelow defined herein) or allow any use of their respective portions of the Total Property or take or fail to take any action which would violate the provisions of the Chicago Zoning Ordinance as said ordinance may be amended from time to time, or any similar or successor ordinance in effect from time to time hereafter and applicable to the Total Property or any portions thereof. The Commercial Property and the Residential Property shall continue to be combined and treated as one zoning lot for the purposes of complying with the Chicago Zoning ordinance. No Owner shall have the right to request or obtain any amendment to the Chicago Zoning Ordinance as applicable to any portions of the Total Property without the consent of the other Owner, which consent shall not be unreasonably withheld, except that no Owner shall be required to consent to any change in the Chicago Zoning ordinance as applicable to any portions of the Total Property which (i) increases density, (ii) increases maximum height in any portion of the Total Property, or (iii) changes the character or permitted use of any portion of the Total Property.

ARTICLE 7

MAINTENANCE AND REPAIR

7.1 Maintenance and Repair. The Owner of the Residential Property shall keep the Building and all Facilities located therein in good and safe order and condition and shall make all repairs or replacements of, in, on, under, within, upon or about the Building, necessary to keep the Building in a safe first-class working order and condition.

7.2 Commercial Property's Share. The Owner of the Commercial Property by acceptance of a deed, whether or not it shall be so expressed, in any such deed or other covenants, hereby covenants and agrees and shall be deemed to covenant and agree to reimburse the Owner of the Residential Property its prorata share of the operations including common

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utilities and cost and expense of the repair and maintenance of the Building as provided in this Declaration. Such pro rata share, together with such interests thereon and cost of collection thereof, is hereinafter provided, shall be a charge and a continuing lien upon the Commercial Property. As such pro rata share, together with such interests and costs, shall also be the continuing personal obligation of the Owner of the Commercial Property.

7.3 Budget. (a) Each year, on or before December 1, the Owner of the Residential Property shall prepare a budget for the ensuing twelve (12) months which shall include estimated cash expenditures and reasonable amounts as a reserve for repairs to and replacements of the improvements on the Building, and shall, on or before December 15 of each year, notify the Owner of the Commercial Property in writing of the amount of such estimate, with reasonable itemization thereof. On or before the next January 1 of each year, following the preparation of the budget, and on the first day of each and every month for the next twelve (12) months, the Owner of the Commercial Property shall be liable for and obligated to pay to the Owner of the Residential Property one-twelfth (1/12th) of the assessment made pursuant to this Paragraph. On or before May 1 of each year, the Owner of the Residential Property shall supply to the Owner of the Commercial Property an itemized accounting, on an accrual or cash basis, of expenses for the preceding calendar year, together with the tabulation of the assessments showing that excess or deficits, on an accrual or cash basis, of income over this sum of expenses, plus reserves. Any such excess may, at the discretion of the Owner of the Residential Property, be retained by the Owner of the Residential Property and shall be placed in a reserve account, which shall be limited to three (3) months assessments.

(b) If said annual assessments prove inadequate for any reason, the Owner of the Residential Property may charge the deficiency against the existing reserves, or levy a further assessment which shall be assessed in accordance with the Percentage Schedule, which is attached hereto and made a part hereof as Exhibit "D". The Owner of the Residential Property shall serve notice for such further assessment on the Owner of the Commercial Property by a statement in writing showing the amount due and reasons therefor, and such further assessments shall become effective with the monthly installment which is due more than ten (10) days after delivery or mailing of such notice of further assessment. All Owners shall be personally liable for and obligated to pay their respective adjusted monthly assessment.

(c) The failure or delay of the Owner of the Residential Property to prepare or serve the annual or adjusted estimate on the Owner of the Commercial Property shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner of the Commercial Property shall continue to pay his monthly installment at the then existing rate established for the previous period until the monthly installment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

7.4 Special Assessments. In addition to the annual assessments authorized above, the Owner of the Residential Property may levy special assessments for the purpose of defraying, in whole or in part, the cost of constructing or purchasing a specified capital improvement upon the

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Building and for the necessary fixtures and personal property related thereto. The special assessments levied hereunder shall be due and payable at such time or times and in such manner as shall be fixed by the Owner of the Residential Property and shall be used only for the specific purpose for which such assessment was levied.

7.5 Reserves. To the extent the annual budget includes an amount specifically designated as a capital reserve, that proportion of each installment of the annual assessments paid to the Owner of the Residential Property as the amount so designated as a capital reserve bears to the total annual budget shall be segregated and maintained by the Owner of the Residential Property in a special capital reserve account to be used solely for making repairs and replacements to the building and improvements thereon which the Owner of the Residential Property is obligated to repair and replace in accordance with the provisions of this Declaration.

7.6 Pro Rata Share. Each Owner hereby agrees to pay its pro rata share of all annual and special assessments based upon the Percentage Schedule which is attached hereto and made a part hereof as Exhibit "D". In addition, each Owner hereby agrees to pay its prorata share of the common utilities based upon the percentages listed in Exhibit "D".

7.7 Default. Any installment of an assessment which is not paid when due shall be delinquent. If said installment is not paid within thirty (30) days after the due date, the Owner of the Residential Property may, upon notice to the Owner of the Commercial Property of such delinquency, accelerate the maturity of all remaining installments due with respect to the current assessment year, and the total amount shall become immediately due and payable and commence to bear interest from the date of acceleration at the maximum rate permitted by law. The Owner of the Residential Property may bring an action against the Owner of the Commercial Property to pay assessments and recover the same, including interests, costs and reasonable attorneys' fees for any such action, which shall be added to the amount of such assessment and included in any judgment rendered in any such action. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent or unpaid charges or assessments, and any such accelerated installments, together with interest, late charges as determined by the Owner of the Residential Property, costs and attorneys' fees as above provided, shall be and become a lien or charge against the Commercial Property when payable and may be foreclosed by any action brought in the name of the Owner of the Residential Property.

7.8 No Waiver. No Owner may waive or otherwise escape liability for assessment provided for herein by non-use of the Building or abandonment of its Property. Any claim by the Owner of the Commercial Property against the Owner of the Residential Property shall be by a separate action and shall not be used as a defense or counterclaim to an action by the Association to collect assessments.

7.9 Assessment Letter. Upon the request of the Owner of the Commercial Property, the Owner of the Residential Property shall deliver to the Owner of the Commercial Property a letter indicating that all assessments have been paid through the date of the letter or, in the event said assessments have not been paid through the date of said letter, a letter stating the amount of the delinquent assessments. The Owner of the Residential Property hereby agrees to deliver said

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Assessment Letter within ten (10) days after its receipt of a request for said assessment letter from the Owner of the Commercial Property.

ARTICLE 8

ARCHITECT

8.1 Appointment of Architect. The appointment of an architect in accordance with this Article shall be for the purpose of resolving disputes and other differences arising under this Declaration during the operation of the Total Property. The Owners shall jointly appoint a firm consisting of both architects and engineers (or a firm of architects and a firm of engineers agreeing to act jointly hereunder) experienced in the design and operation of structures similar to the improvements to serve under and pursuant to the terms and provisions of this Declaration (the "Architect"). The Architect shall, upon its appointment, execute an agreement with the Owners substantially in the form of or comparable to The American Institute of Architects ("AIA"), AIA Document B141, (or the then current edition), entitled "Standard Form Agreement between Owner and Architect." Any Owner may cause any Architect to be replaced if it demonstrates to the other Owner that such then serving Architect has failed to perform its duties hereunder fairly, diligently or competently in accordance with the Owner-Architect Agreement. In such event, the Owner desiring replacement of the Architect shall serve notice upon the other Owner and the Mortgagees, requesting the removal of the then serving Architect, which notice shall set forth with specificity the respect or respects in which such Architect shall have failed to perform diligently or competently in accordance with the Owner-Architect Agreement. If, in the opinion of an Owner receiving such notice, the Owner desiring to replace the Architect is not entitled to require the appointment of a new Architect pursuant to this Section, an Owner receiving such notice and objecting to the appointment of a new Architect shall notify the other owner of its objection in writing within fifteen (15) days after receipt of such notice from the other Owner.

8.2 Submission of Dispute. In any instance when the Architect serving pursuant to this Article is authorized by this Declaration to advise the Owners concerning any dispute or matter, any Owner involved in such dispute or matter may submit the same to the Architect. The Owner submitting such dispute or matter shall simultaneously give written notice of the submission of such dispute or matter to the other Owner involved in such dispute and the Mortgagees. The Architect shall, except in an Emergency Situation, afford each Owner involved in any dispute or matter, and any attorney or other representative designated by such Owner and the Mortgagees, an opportunity to furnish information or data or to present such party's views.

8.3 Architect's Fees and Costs. The Architect shall be paid a reasonable fee for any services rendered hereunder and shall be reimbursed for reasonable and necessary expenses incurred in connection therewith, and the owners shall each pay their equitable share of such fees. In any instance when the Architect shall, in accordance with any of the provisions of this Declaration, render services in connection with the preparation of plans and specifications or the supervision of repair, restoration or demolition of the Improvements or any part thereof, the fees

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and expenses of the Architect shall be considered as costs and expenses of said repair, restoration or demolition, as the case may be, and shall be paid in the same manner as other costs and expenses of repair, restoration and demolition under the provisions of this Declaration pursuant to which the Architect is performing such services. If any Owner shall fail to pay its allocable share of any fees or expenses of the Architect within ten (10) days after receipt of any invoice therefor from the Architect, then any other Owner may pay the same and the Owner failing to pay shall, within ten (10) days after written demand for reimbursement, reimburse the other Owner for any such payment, plus interest at the Default Rate from the date of payment by the Owner to the date of reimbursement to such Owner.

ARTICLE 9

CONDOMINIUM ASSOCIATION ACTING FOR UNIT OWNERS

So long as any portion of the Total Property is subject to the provisions of the Act, all rights, easements and benefits under this Declaration appurtenant to or enjoyed by the Owner of the portion of the Total Property subject to the Act, and consents, waivers, approvals and appointments which may be granted by an Owner, shall be exercised by the Condominium Association administering such portion of the Total Parcel on behalf of the Unit Owners of the Units in such portion of the Total Parcel, except for such rights or benefits expressly granted to Unit Owners, and except for easements which by their nature are exercisable only by Unit Owners and in the event of any such action taken by a Condominium Association, the Unit Owners shall be bound as if such Unit owners had expressly consented and agreed to such actions by such Condominium Association. Any action to enforce or defend rights, obligations, easements, burdens and benefits under this Declaration, or the right to settle and compromise any claims, on behalf of the Unit Owners who are members of a Condominium Association shall be taken on behalf of such Condominium Association and all such Unit Owners, solely by such Condominium Association by its duly authorized officers acting pursuant to authority granted by law, the applicable Condominium Declaration or resolution of the board of managers of such Condominium Association. Except as otherwise noted herein, any requirement for any Unit Owner to furnish a notice or deliver a document may also be performed by the Condominium Association of which such Unit Owner is a member. No Unit Owner or group of Unit Owners shall have the right to take any action under this Declaration or to enforce any of the rights, easements or privileges granted by this Declaration for the benefit of the Total Property or any part thereof. All obligations under this Declaration of the Owner of a portion of the Total Property subject to the Act shall be obligations jointly and severally of both the applicable Condominium Association and all Unit owners in such portions of the Total Property and any lien arising against the Owner of any such portion of the Total Property may be imposed against the Units of all such Unit Owners based upon their percentages of interest in the Common Elements appurtenant to such portion of the Total Property, which each Unit Owner may discharge in accordance with the provisions of this Declaration.

ARTICLE 10

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ALTERATIONS

10.1 Alterations. (a) Any Owner (hereinafter in this Article, "Altering Owner") may, at any time, at such Altering Owner's sole cost and expense, make additional improvements or alterations (hereinafter in this Article, "Alterations") to the part of the Improvements within such Altering Owner's portion of the Total Property, provided that such Alterations comply with the balance of this Section and all of the other provisions of this Declaration. Any plans and specifications for any restoration of the Improvements which contain substantially the same architectural features as the Improvements which existed prior to the necessity of restoration shall not be deemed to be Alterations within the meaning of this Article. Prohibitions and restrictions on Alterations by the Owner of the Condominium Property shall also apply to individual Unit Owners.

(b) Unless otherwise provided in this Article, Alterations shall not be made without the prior written consent of the other owner if such Alterations will:

(i) unreasonably diminish the benefits afforded to such other Owner by any easement or unreasonably interrupt such other Owner's use or enjoyment of any easement;

(ii) alter the facade of the Improvements (other than for signage installed by the Owner of the Commercial Property on the exterior of the Commercial Property for the identification of the Building and occupants or tenants of the Commercial Property);

(iii) impair the structural integrity of the Improvements (or any portion thereof) or necessitate the erection of additional columns, bearing walls, or other structures upon or within the Total Property;

(iv) affect Facilities benefiting the other Owners other than minimally or incidentally; or

(v) materially change the expected pedestrian and vehicular traffic patterns or patterns of ingress and egress.

(c) If, at any time, the Altering Owner proposes to make any Alterations which require or could possibly require the consent of the other Owner or the Mortgagees of the Mortgages, if applicable, then before commencing or proceeding with such Alterations, the Altering owner shall deliver to the other Owner and the applicable Mortgagees, a copy of the plans and specifications showing the proposed Alterations. If such other Owner and the applicable Mortgagees consent to such Alterations or state that their consents are not required, the Altering Owner may proceed to make its Alterations substantially in accordance with said plans and specifications. The Owner or Mortgagees whose consents are requested shall make a good faith effort to respond to the Altering Owner within thirty (30) days after its receipt of said plans and specifications from the Altering Owner showing proposed Alterations. If the Altering Owner has not requested the other Owner consent to the proposed alterations, and if, in the good

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faith opinion of the other owners or the applicable Mortgagees, the Altering Owner has violated or will violate the provisions of this Article, such Owner or Mortgagees (an "Objecting Party") shall notify the Altering owner of its opinion that the Alterations or proposed Alterations violate or will violate the provisions of this Article, and shall specify the respect or respects in which its provisions are or will be violated. If an Objecting Party in good faith asserts such a violation, then the Altering owner shall not commence with the Alterations or proceed with the Alterations, if already commenced, until the matter has been resolved. In addition to any other legal or equitable rights or remedies to which the Objecting Party may be entitled by reason of an Altering Owner's violation or likely violation, the Objecting Party shall be entitled to seek and obtain injunctive relief to enjoin any such violation.

(d) If any matter arises, between the Owners with respect to whether any Alterations or proposed Alterations violate the provisions this Article, then any Owner may submit such matter to the Architect for its advice, and the Architect shall render its opinion whether the Alterations or proposed Alterations violate the provisions hereof.

(e) The Owners, in making Alterations, shall (i) perform all work in a good and workmanlike manner and in accordance with good construction practices, (ii) comply with all applicable federal, state and local laws, statutes, ordinances, codes, rules, regulations and orders, including, without limitation, the City of Chicago Building Code, and (iii) comply with all of the applicable provisions of this Declaration. Each Owner shall, to the extent reasonably practicable, make Alterations within its portion of the Total Property in such a manner as to minimize any noise, vibration, particulate and dust infiltration or other interference or disturbance which would interfere with or disturb an occupant or occupants of the other portion of the Total Property, but such Owner shall not be liable in any event for damages as a result of any such disturbance.

10.2 Applications. Applications for building permits to make Alterations shall be filed and processed by the Altering Owner without the joinder of the other Owner in such application, unless the City of Chicago or other government agency having jurisdiction thereof requires joinder of the other Owner. If joinder by the other Owner not making Alterations is so required, said Owner shall cooperate in executing such application or other instruments as may be necessary to obtain the building permit; provided, however, the Altering Owner shall indemnify and hold harmless the other owners from and against any and all loss, liability, claims, judgments, costs and expenses arising out of the other Owner's execution of the application, permit or other instrument.

10.3 Mechanics' Liens. An Altering Owner performing any work required or provided for under this Declaration shall include in any construction contract a provision pursuant to which the contractor (i) recognizes the separate ownership of the various Parcels which comprise the Total Property and agrees that any lien rights which the contractor or subcontractors have under the Mechanics Lien Act shall only be enforceable against the portion of the Total Property owned by the Altering Owner, or (ii) agrees that no lien or claim may be filed or maintained by such contractor or any subcontractors against any other portion of the Total Property and agrees to comply with the provisions of Section 21 of the Mechanics Lien Act in connection with giving notice of such "no lien" provision.

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ARTICLE 11

NOTICES

11.1 Notices. All notices, demands, elections or other communications required, permitted or desired to be served hereunder ("Notices") shall be in writing and shall be delivered in person or mailed as certified or registered matter, postage, prepaid, return receipt requested, addressed to the respective Owner at their current address. The foregoing notwithstanding, at such time as any portion of the Total Property is submitted to the Act, Notices to the Owners of such portion of the Total Property shall be delivered or mailed, as aforesaid, to any officer, director or managing agent of the applicable Condominium Association to such address as may appear in any public record instead of the addresses set forth above. Any change of address shall be effective, however, only upon the giving of notice thereof to the other owners in accordance with the provision of Section 11.3 hereof. Copies of all such Notices shall also be sent to the applicable Mortgagees. Concurrently with the giving of any notification required hereunder to be given, or which any other party hereto may desire to give to the Owner of the Residential Property or the Owner of the Commercial Property, a duplicate original of such notification shall be given to the Mortgagees affected thereby at the address for the giving of notice set forth in the mortgage or trust deed securing indebtedness to such Mortgagees, or to any other address of which notice by United States Mail, return receipt requested, shall have been given to the other parties hereto.

11.2 Notices to Unit Owners. So long as any portion of the Total Property remains subject to the Act, (a) the Owner of the other portion of the Total Property may, but shall not be obligated to, give personal notice to any Unit Owner in such portion of the Total Property, notice to the applicable Condominium Association hereby being deemed sufficient and effective notice to all Unit Owners of such portions of the Total Property, and (b) such Condominium Association alone shall be empowered to give notice on behalf of any or all Unit Owners with respect to the applicable portion of the Total Property under this Declaration, which notice shall be binding on such Unit Owners.

11.3 Delivery of Notice. Any Notice delivered, as aforesaid, shall be deemed received when delivered and receipted for or any Notice mailed as aforesaid shall be deemed received five (5) business days after deposit in the United States Mail or upon actual receipt, whichever is earlier. Addresses for service of Notice may be changed by written notice served as hereinabove provided at least ten (10) days prior to the effective date of any such change. Nothing herein contained, however, shall be construed to preclude service of any Notice in the same manner that service of a summons or legal process may be made.

ARTICLE 12

LIMITATION OF LIABILITY

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12.1 Non-Liability. Each Owner of a portion of the Total Property shall cooperate in the securing and performing of the services as set forth in this Declaration but shall not be liable for interruption or inadequacy of service, loss or damage to property or injury (including death) to any person for any reason. Each Owner obligated hereunder is reserved the right to curtail or halt the performance of any service hereunder at any time in reasonable respects for a reasonable period of time to make necessary repairs or in case of an Emergency Situation.

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

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

ARTICLE 13

GENERAL

13.1 Cooperation. In fulfilling obligations and exercising rights under this Declaration, each Owner shall cooperate with the other Owner to promote the efficient operation of each respective portion of the Total Property and the harmonious relationship between the Owners and to protect the value of each Owner's respective portion, estate or interest in the Total Property. To that end, each Owner shall share information which it possesses relating to matters which are the subject of this Declaration, except such information as such Owner may reasonably deem confidential or which may be the subject of litigation and which such Owner is prohibited from revealing pursuant to court order. From time to time after the date hereof, each Owner shall furnish, execute and acknowledge, without charge (except where elsewhere provided herein) (i) such other instruments, documents, materials and information as the other Owner hereto may reasonably request in order to confirm to such requesting Owner the benefits contemplated hereby, but only so long as any such request does not restrict or abridge the benefits granted the other Owner hereunder or increase such Owner's burdens hereunder; and (ii) such grants of easements to and agreements with utility companies as the other Owner hereto may reasonably request in order to enable such utility company to furnish utility services as required by such

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owner, provided that the Mortgagees which hold any Mortgage on the portions of the Total Property on which such Easement is granted have first consented in writing to such easements.

13.2 Unenforceable or Inapplicable Provisions. The illegality, invalidity or unenforceability under law of any covenant, restriction or condition or any other provision of this Declaration shall not impair or affect in any manner the validity, enforceability or effect of the remaining provisions of this Declaration.

13.3 Headings. The headings of Articles in this Declaration are for convenience of reference only and shall not in any way limit or define the content, substance or effect of the Articles.

13.4 Amendments. (a) Except as otherwise provided herein, this Declaration may be amended or terminated only by an instrument signed by the Owners and the Mortgagees. So long as any portion of the Total Property is submitted to the Act, the Condominium Association administering such portion of the Total Property may, by its authorized officers, execute all amendments to or any termination of this Declaration on behalf of all Unit Owners in such portion of the Total Property, which amendments or termination shall be binding on all Unit Owners. Any amendment to or termination of this Declaration shall be recorded with the Recorder.

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

13.5 Term. The covenants, conditions and restrictions contained in this Declaration shall be enforceable by the Owners and their respective successors and assigns for a term of forty (40) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended without further act or deed of the owners, except as may be required by law and as provided below, for successive periods of ten (10) years, subject to amendment or termination as hereinabove set forth; provided, however, that this Declaration, and all easements, covenants, conditions and restrictions contained herein, shall

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terminate and be deemed abrogated upon the demolition or destruction of all of the Improvements and the failure to restore or rebuild the same within five (5) years after such demolition or destruction. If and to the extent that any of the covenants would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (e) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provision concerned shall continue and endure only until the expiration of a period of twenty one (21) years after the date of the last to survive of the class of persons consisting of all of the lawful descendants of Richard M. Daley, Mayor of the City of Chicago, living at the date of this Declaration.

13.6 Construction. The Provisions of this Declaration shall be construed to ensure that the Total Property shall remain a first-class, mixed-use property.

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

13.8 Non-Use of Easements. Easements created hereunder shall not be presumed abandoned by nonuse or the occurrence of damage or destruction of a portion of the Improvements subject to an Easement unless the Owner benefitted by such easement states in writing its intention to abandon the easement or unless the easement has been abandoned for a period in excess of two (2) years.

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

13.10 Third Party Beneficiary. This Declaration is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third-party beneficiary (except the Mortgagees) under any statutes, laws, codes, ordinances, rules, regulations, orders, decrees or otherwise.

13.11 Entire Agreement. Each provision of the Recitals to this Declaration and each Exhibit attached hereto is hereby incorporated in this Declaration and is an integral part hereof.

13.12 Fees. No charges shall be made for any easements or rights granted hereunder unless otherwise provided or permitted under the terms of this Declaration.

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13.13 Signage. The Owner of the Commercial Property (whether for itself and/or for the benefit of its tenant) shall have the right to maintain, in its respective portion of Total Property, such signage on the facade of the Building in order to identify such Owner's (and/or tenant's) use of the Building, without the consent of either the Owner of the Residential Property or the Condominium Association governing the Condominium Property. Consistent with the preceding sentence, no signage shall be installed upon the facade of the Residential Improvements without the prior written consent of the Owner of the Commercial Property.

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CONSENT OF MORTGAGEE

INTERSTATE BANK ("Bank"), holder of a Mortgage (the "Mortgage") dated as of July 28, 2004 and recorded in the office of the Recorder of Deeds of Cook County, Illinois, on July 29, 2004, as Document Number 0421142218, hereby consents to the execution and recording of the attached Declaration and agrees that said Mortgage is subject thereto.

IN WITNESS WHEREOF, the said Bank has caused this Consent of Mortgage to be signed by its duly authorized officers on its behalf in Oak Forest, Illinois, on this 23rd day of February, 2006.

INTERSTATE BANK

By: Robert Romero
Robert Romero, Vice President

ATTEST:

By: Teri M. Alexander
Teri M. Alexander, Asst. Vice President

STATE OF ILLINOIS)
) SS.
COUNTY OF WILL)

The undersigned, a Notary Public in and for the County and State aforesaid., do hereby certify that Robert Romero, Vice President and Teri M. Alexander, Asst. Vice President, respectively, of **INTERSTATE BANK**, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such and respectively appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Bank for the use and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 23rd day of February, 2006.

Roberta L. Mitchell
Notary Public



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IN WITNESS WHEREOF, Declarant has caused this Operating Declaration to be executed as of the 14th day of March, 2006.

J & J CONSULTANTS II, INC.,
an Illinois corporation

By: [Signature]

Name: Jakub Kosiba

Its: President

Attested by: [Signature]

Name: Joseph A. Annunzio

Its: Secretary

STATE OF ILLINOIS)

) SS.

COUNTY OF COOK)

The undersigned, a Notary Public in and for the County and State aforesaid., do hereby certify that Jakub Kosiba, President of J & J CONSULTANTS II, INC., and Joseph A. Annunzio, Secretary of J & J CONSULTANTS II, INC., personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such and respectively appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts, and as the free and voluntary act of said Corporation, for the use and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 14th day of March, 2006.

[Signature]
Notary Public



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EXHIBIT "A"

TOTAL PARCEL

LEGAL DESCRIPTION:

Lots 27 and 28 in Block 1 in Sherman's Addition to Holstein, in the Southeast ¼ of the Northwest ¼ of Section 31, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

COMMONLY KNOWN AS:

2148-50 North Damen Avenue, Chicago, Illinois 60647

PERMANENT INDEX NUMBERS:

14-31-123-024-0000 (undivided)

14-31-123-025-0000 (undivided)

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EXHIBIT "B"

COMMERCIAL PARCEL

See Legal Description attached hereto and incorporated herein by reference

Property of Cook County Clerk's Office

Record Ind

closing 8/31

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COMMERCIAL PARCEL

THAT PROPERTY AND SPACE CONTAINED WITHIN AND BETWEEN A CERTAIN HORIZONTAL PLANE LOCATED 13.42 FEET ABOVE CHICAGO CITY DATUM AND THAT CERTAIN OTHER HORIZONTAL PLANE LOCATED 27.45 FEET ABOVE CHICAGO CITY DATUM LYING WITHIN THE BOUNDARIES PROJECTED VERTICALLY OF THAT PART OF LOTS 27 AND 28, TAKEN TOGETHER AS A SINGLE TRACT, IN SHERIDAN'S ADDITION TO HOLSTEIN, IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF AFORESAID LOT 28, BEING ALSO THE SOUTHEAST CORNER OF A FOUR STORY BRICK BUILDING COMMONLY KNOWN AS 2148-2150 NORTH DAMEN AVENUE IN CHICAGO; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 28, BEING ALONG THE EXTERIOR FACE OF SAID BUILDING, A DISTANCE OF 0.96 FEET; THENCE WEST ALONG A LINE MAKING AN ANGLE OF 89 DEGREES 40 MINUTES 42 SECONDS MEASURED COUNTER-CLOCKWISE NORTH TO WEST FROM THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 0.96 FEET TO A POINT ON THE VERTICAL LINE OF INTERSECTION OF THE INTERIOR FACES OF TWO WALLS OF SAID BUILDING, BEING ALSO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE ALONG THE INTERIOR FACES OF THE WALLS OF THE ENCLOSED SPACE DESCRIBED HEREIN, THE FOLLOWING COURSES AND DISTANCES:

CONTINUING WEST ALONG THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 58.10 FEET;

NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 34.50 FEET;

EAST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 58.10 FEET;

SOUTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 34.50 FEET TO THE POINT OF BEGINNING.

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EXHIBIT "C"

RESIDENTIAL PARCEL

See Legal Description attached hereto and incorporated herein by reference

Property of Cook County Clerk's Office

UNOFFICIAL COPY

RESIDENTIAL PARCEL

LOT 27 AND 28 IN SHERIDAN'S ADDITION TO HOLSTEIN, IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS;

EXCEPTING THEREFROM

THAT PROPERTY AND SPACE CONTAINED WITHIN AND BETWEEN A CERTAIN HORIZONTAL PLANE LOCATED 13.42 FEET ABOVE CHICAGO CITY DATUM AND THAT CERTAIN OTHER HORIZONTAL PLANE LOCATED 27.45 FEET ABOVE CHICAGO CITY DATUM LYING WITHIN THE BOUNDARIES PROJECTED VERTICALLY OF THAT PART OF LOTS 27 AND 28, TAKEN TOGETHER AS A SINGLE TRACT, IN SHERIDAN'S ADDITION TO HOLSTEIN, IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF AFORESAID LOT 28, BEING ALSO THE SOUTHEAST CORNER OF A FOUR STORY BRICK BUILDING COMMONLY KNOWN AS 2148-2150 NORTH DAMEN AVENUE IN CHICAGO; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 28, BEING ALONG THE EXTERIOR FACE OF SAID BUILDING, A DISTANCE OF 0.96 FEET; THENCE WEST ALONG A LINE MAKING AN ANGLE OF 89 DEGREES 40 MINUTES 42 SECONDS MEASURED COUNTER-CLOCKWISE NORTH TO WEST FROM THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 0.96 FEET TO A POINT ON THE VERTICAL LINE OF INTERSECTION OF THE INTERIOR FACES OF TWO WALLS OF SAID BUILDING, BEING ALSO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE ALONG THE INTERIOR FACES OF THE WALLS OF THE ENCLOSED SPACE DESCRIBED HEREIN, THE FOLLOWING COURSES AND DISTANCES:

CONTINUING WEST ALONG THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 58.10 FEET;

NORTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 34.50 FEET;

EAST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 58.10 FEET;

SOUTH AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 34.50 FEET TO THE POINT OF BEGINNING.

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EXHIBIT "D"

PERCENTAGE SCHEDULE

ASSESSMENTS

RESIDENTIAL PARCEL	86.00%
COMMERCIAL PARCEL	14.00%

TOTAL:	<u>100.00%</u>

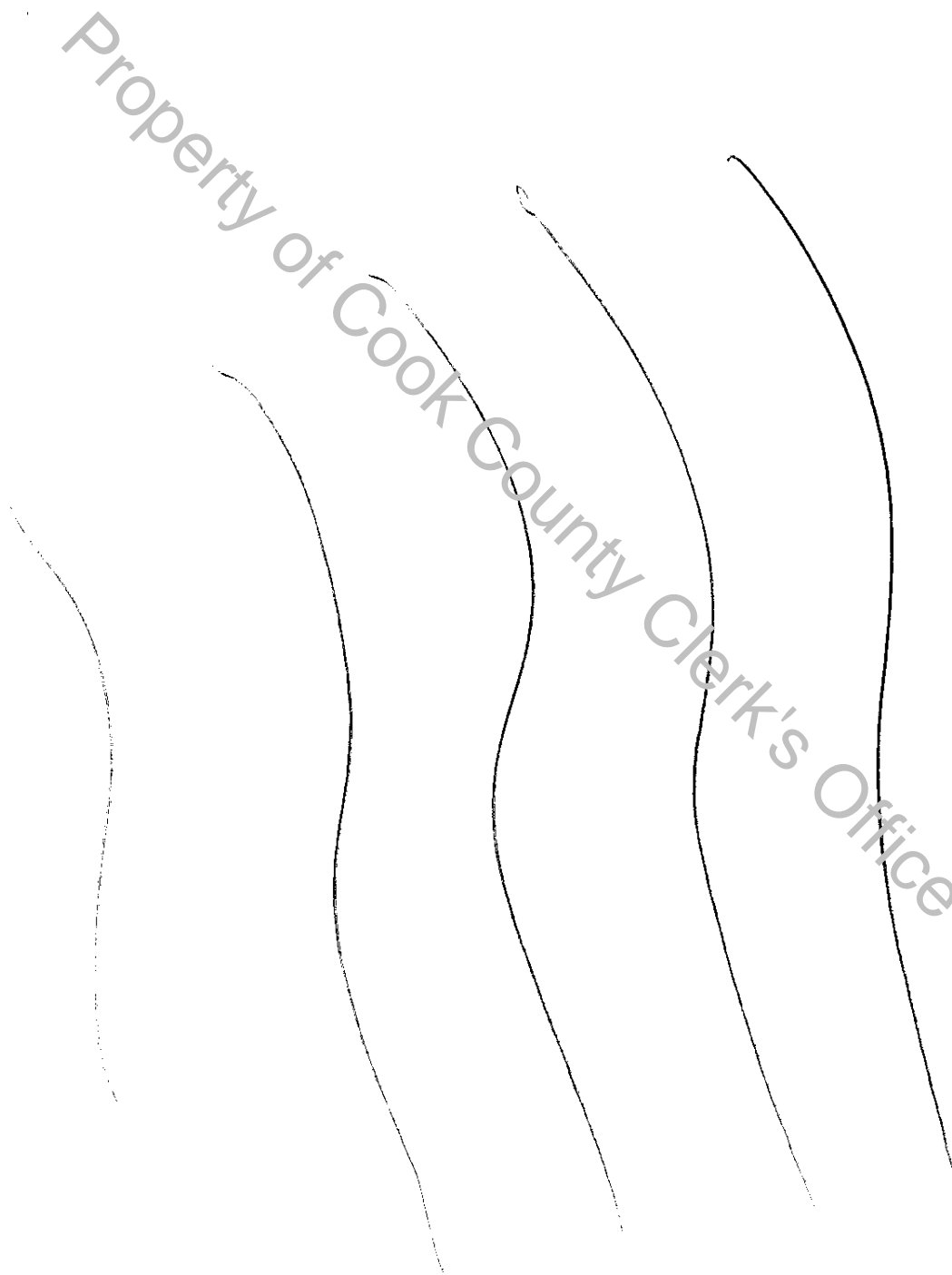
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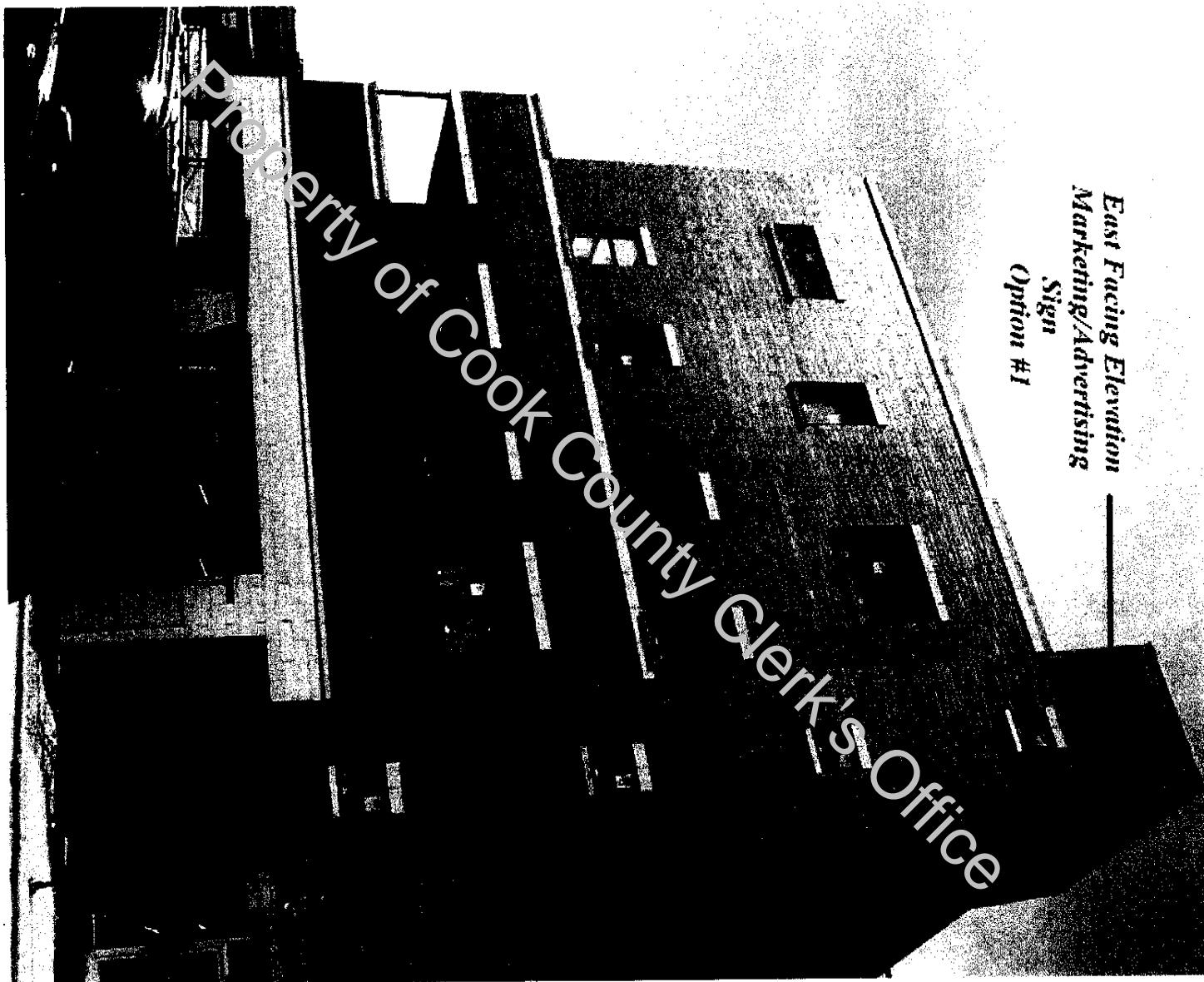
EXHIBIT "E"

WALL SIGN AREAS

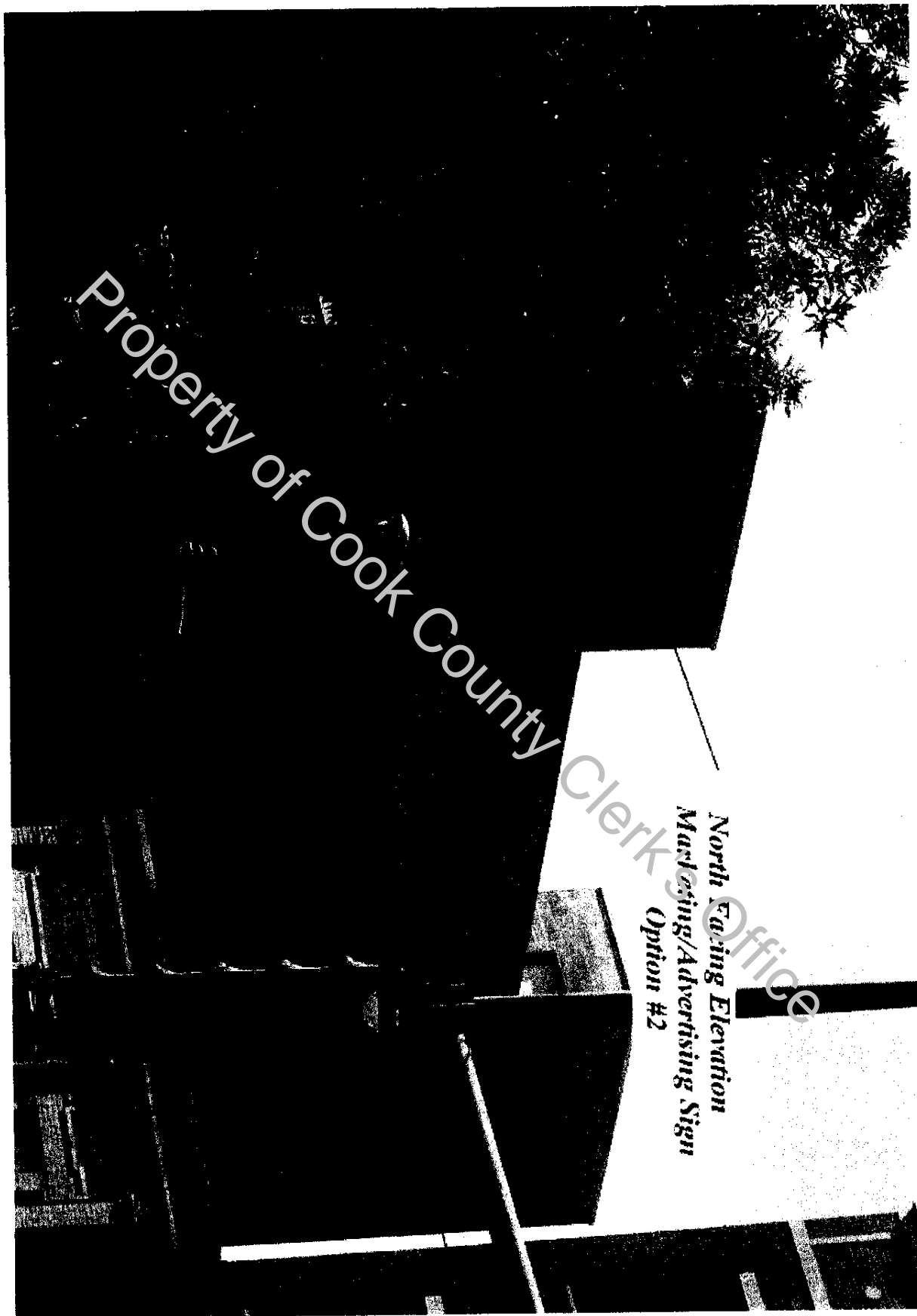
See the three (3) photographs attached hereto and incorporated herein by reference



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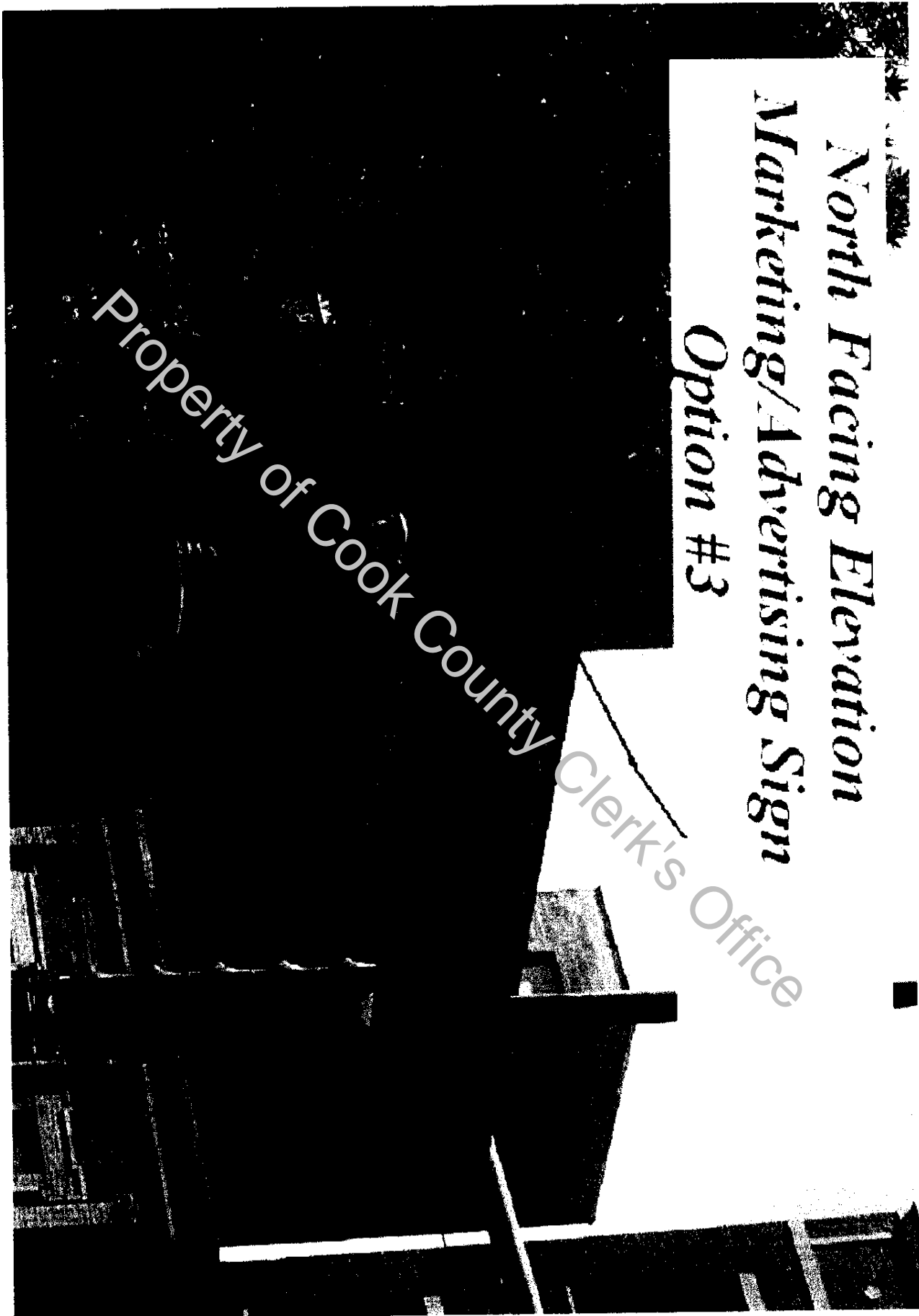


Property of Cook County

Clerk's Office

North Facing Elevation
Marketing/Advertising Sign
Option #2

UNOFFICIAL COPY



*North Facing Elevation
Marketing/Advertising Sign
Option #3*

Property of Cook County Clerk's Office