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Cook County Recorder 127.00

DECLARATION OF RESTRICTIONS, EASEMENTS, PARTY WALL RIGHTS AND MAINTENANCE FOR ADDISON LEAVITT TOWN HOMES AND PARKING GARAGE

EXHIBIT ATTACHED

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THIS Declaration is made this 20th day of December, 1999, by JAMES JAEGER and ERIC HAAKE ("Declarant").

RECITALS

The Declarant is the Owner in fee simple of the tract of land in the City of Chicago, Cook County, Illinois described on Exhibit "A" attached hereto, said land being referred to as the "Land" for purposes of this Declaration.

The Town Homes, hereinafter referred to as Row Homes consist of five (5) single family residences, having party walls, which are constructed in a single grouping of the five (5) units. The Parking Garage which may be referred herein as Garage Spaces, consists of five (5) garage parking spaces, constructed in a single grouping of the five (5) parking spaces.

The Declarant intends to convey the Row Homes and Garage Spaces to individual or multiple purchasers who will accept title to said real estate subject to the terms and conditions of this Declaration.

The purposes of this Declaration are as follows:

- A. To provide for the conservation of the values and amenities of the Row Homes and Garage Spaces, and for the creation of the rights of way and easements set forth herein.
- B. To provide for the conservation and enhancement of the values of all residences comprised by the Row Homes and for the conservation of the integrity, character and architectural uniqueness of said residences.
- C. To establish the terms of the party wall agreements relative to the shared walls of the Row Homes.
- D. To establish certain easements for ingress and egress and for utility service and maintenance and for the Parking Garage Roof Deck.

BOX 333-CTI

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**DECLARATION OF
RESTRICTIONS, EASEMENTS,
PARTY WALL RIGHTS
AND MAINTENANCE FOR
ADDISON LEAVITT
TOWN HOMES
AND PARKING GARAGE**

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- C. To establish the terms of the party wall agreements relative to the shared walls of the Row Homes.
- D. To establish certain easements for ingress and egress and for utility service and maintenance and for the Parking Garage Roof Deck.

E. To establish the terms of maintenance of the party walls, Row Homes roof, the Parking Garage roof, the garage exitway and walkway easement area, the Parking Garage Roof Deck easement area, and the parkway areas relative to those areas shared by the Row Homes and Garage Spaces.

NOW, THEREFORE, the Declarant hereby declares that the Row Homes shall hereafter be 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 on all parties having any interest in the Row Homes or any part thereof and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

1.1 **MEANINGS.** As used herein (unless the context shall prohibit), the following words shall have the following meanings:

- a) **Declarant:** James Jaeger and Eric Haake.
- b) **Row Homes:** The five (5) residences consisting of a single group of the five (5) units.
- c) **Parking Garage:** The entire structure and underlying land located on the West portion of the Land consisting of a single group of five (5) Garage Spaces.
- d) **Plat:** The survey attached hereto as Exhibit "B".
- e) **Party Wall:** The demising wall, which exists between two (2) Row Homes shall be referred to herein as "row home party wall(s)".
- f) **Row House:** One (1) housing unit or residence in the Row Homes, consisting of a group of rooms within the demising walls.
- g) **Garage Space:** One (1) Garage Space or parking spot in the Parking Garage, consisting of that space and the underlying land as set forth on the Plat attached hereto as Exhibit "B".
- h) **Occupant:** A person or persons in lawful possession of a dwelling unit.
- i) **Guest:** An invitee or visitor of any occupant of a dwelling unit.
- j) **Land:** The entire parcel set forth on Exhibit "A" attached hereto which contains all of the Lots on which the Row Homes and Garage Spaces are constructed.

k) Lot: The plot of land upon which a Row House or Garage Space is constructed and which may be referred to as "Parcel 1,2,3,4 or 5" in the case of a Row House and as "Parking Parcel 1, 2, 3, 4 or 5" in the case of a Garage Space.

l) Owner: A record Owner, whether one or more persons or entities (including the Declarant), of a fee simple title to any lot upon which a Row House and Garage Space is constructed, but excluding those having such interest merely as security for the performance of an obligation.

m) Easement Areas: That portion of the Parking Garage which is located upon the South portion of each Garage Space, for ingress and egress from each Garage Space to the exit door located on the West side of the Parking Garage ("exitway") and that portion of the sidewalk along the West portion of the land running across each Row House lot from the Parking Garage exitway, south to the end line of the Land ("walkway") and which together are known as Easement Parcel A ("Garage Exitway and Walkway"). In addition that portion of the Parking Garage roof located on the Southwest corner thereof with approximate dimensions of 12' x 22' upon which a roof deck has been or shall be constructed for the sole use, benefit and enjoyment of the Owner of Row House Parcel 5 and known as Easement Parcel B (Parking Garage Roof Deck). The Easement Areas are more fully described in Article II below and more fully shown on the Plat attached hereto as Exhibit B and incorporated herein by reference.

1.2 **EXCLUSION**: This Declaration specifically excludes any reference to "common areas" (other than portions of the roofs as designated herein) associations, assessments, or by-laws. The Row Homes and Garage Spaces which are subjected to this Declaration are considered to be fee simple units with no shared land or common elements (other than said roofs), and the purpose of this Declaration is limited solely to the matters set forth herein as they relate to easements, restrictions, party walls, roofs, Parking Garages, the emergency exitway and the stairway and their maintenance.

ARTICLE II

EASEMENTS

2.1 **GAS EASEMENT**: An easement is hereby reserved for and granted to the Peoples Gas, Light & Coke Company, its successors and assigns, to install, construct, operate, maintain, inspect, repair, renew, replace, remove or abandon in place gas mains and service pipes, together with the necessary valves, valve boxes, regulators and other attachments, connections and fixtures for distributing gas to properties within and without the Row Homes and Parking Garage, upon, under, across and within all roads, streets, alleys, and common areas (if any) within the Row Homes, provided however, that such facilities, equipment and appurtenances, when installed, will not interfere with the movement of traffic upon such areas.

2.2 **MISCELLANEOUS UTILITIES**: Where any pipes, wires, meters, sewer lines and cleanouts, conduits or public utility lines lie within the boundaries of a Row House lot or Garage

Space, any portions thereof, servicing only that lot, shall be deemed a part of that lot. Each Row House and Garage Space has been provided with its own water, sewer, electric and telephone service. Easements are hereby declared and granted for utility purposes, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, television cable lines and equipment and electrical conduits, wires, meters and equipment, over, under, along and on any part of the Row House Lots or on any part of the Parking Garage Lots, as they exist on the date of the recording hereof.

2.3 ELECTRIC, TELEPHONE AND CABLE EQUIPMENT: An electrical equipment box or boxes have been or shall be constructed in an area as delineated on the Plat, and referred to therein as "Utility Easement". Said area contains certain electrical equipment that services each of the Row Homes. Additionally, telephone and cable equipment box or boxes have been or shall be constructed in the same Utility Easement area. Said area contains telephone and cable equipment that services each of the Row Homes. Easements are hereby declared and granted for electric, telephone and cable utility purposes and for such other utility purposes as may be necessary and to allow the respective utility companies to maintain and service the utility equipment which is or may be located in said electrical, telephone or cable equipment boxes.

2.4 CITY OF CHICAGO SEWER AND WATER EASEMENT: An easement is hereby granted to the City of Chicago to go upon the Land at any time for the purpose of maintenance, replacement and repair of water sewer and any other related facilities as may be under the control of said City. A separate covenant has been furnished to the City of Chicago relating to the maintenance of said lines and facilities.

2.5 CONSTRUCTION EASEMENT: Declarant reserves for itself and each Owner an easement and right to overhang and encroach upon, over and on any portion of adjacent Row Homes or Garage Spaces with a roof, portico, retaining wall or other projection, appurtenance or fixture to any building situated on a lot as the same exists on the date of the recording hereof, but not otherwise, together with the right to go upon each such portion of an adjacent Row House or Garage Space for the purpose of reconstructing, repairing, maintaining, inspecting or replacing such roof, portico, retaining wall or other projection, appurtenance or fixture to any such building. In the event that, by reason of the construction, settlement or shifting of any building as originally constructed or as now existing, any part of a residential unit encroaches or shall hereafter encroach upon any part of any Row House Lot or Garage Space Lot, or, if by reason of the design or construction of utility and ventilation systems, any main pipes, ducts or conduits serving more than one Row House Lot or Garage Space Lot encroach or shall hereafter encroach upon any part of any Lot, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of such Lot so long as all or any part of the building in which such Row House or Garage Space is located shall remain standing, provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Owner if such encroachment be or its use is detrimental to or interferes with the reasonable use and enjoyment of the adjacent Row Homes or Garage Spaces by the other Owners and if it occurred due to the willful conduct of any Owner.

2.6 EASEMENTS FOR INGRESS AND EGRESS AND FOR MAINTENANCE:

The Declarant hereby creates for its heirs, successors and assigns, as easements appurtenant to the Land, perpetual easements for the ingress and egress, of all manner and type, as more fully set forth below, over and upon the Easement Parcels located on the Land:

A. Description of Easements.

(i) Each of the individual Row Homes shall have a mutual easement for ingress and egress over, across and upon the portion of the South side of the Parking Garage and underlying land, through the exterior doorway referred to as the "exitway" and out to the walkway running south along the walkway to the end line of the Land. This easement shall be referred to as Easement Parcel A (Garage Exitway and Walkway) and shall be legally described as follows:

THE WEST 2.50 FEET (EXCEPT THE NORTH 23.02 FEET) AND THE SOUTH 3.50 FEET OF THE NORTH 23.02 FEET OF THE TRACT OF LAND DESCRIBED AS FOLLOWS: THAT PART OF LOT 16 AND 17, TAKEN AS A TRACT, IN WILLIAM ZELOSKY'S SUBDIVISION OF BLOCK 24 IN THE SUBDIVISION OF SECTION 19, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 19), AFORESAID IN COOK COUNTY, ILLINOIS.

(ii) The Owner of Row House Parcel 5 shall have an exclusive easement for the use, benefit and enjoyment of the Parking Garage Roof Deck constructed on the roof of the Parking Garage in the Southwest corner thereof. This easement shall be referred to as Easement Parcel B (Parking Garage Roof Deck) and shall be legally described as follows:

THAT PART OF LOT 16 AND 17, TAKEN AS A TRACT, IN WILLIAM ZELOSKY'S SUBDIVISION OF BLOCK 24 IN THE SUBDIVISION OF SECTION 19, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 19), AFORESAID IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: AREA 22.00 X 12.33 SITUATED ON GARAGE ROOF, AND LYING BETWEEN LINE WHICH ARE 10.60 EAST AND 32.60 EAST OF THE WEST LINE OF SAID TRACT AND LYING BETWEEN LINE WHICH ARE 10.69 SOUTH AND 23.02 SOUTH OF THE NORTH LINE OF SAID TRACT.

Easement Parcel A and Easement Parcel B shall be delineated on the Plat as Easement Parcel A and Easement Parcel B which is attached hereto as Exhibit "B".

B. Use of Easement.

(i) Use of the Easement Parcel A is confined to the Owners, tenants, residents, guests, invitees and agents and servants of the Owners of each Row House and Garage Space for ingress and egress. Easement Parcel A may be used by such individuals as set forth herein as is necessary to provide access to and from and use of the designated Garage Spaces. No Owner of a Row House may obstruct or prevent free access over, across and upon any portion of the Easement Parcel A. No locks whatsoever may be placed on the exterior garage side door by an individual Owner for

purposes of locking out or preventing the use of or access to, from and through Easement Parcel A by other Owners, or by storing or hanging such items in the Garage Spaces that would obstruct or impede such ingress or egress. A common lock shall exist on the exterior garage side door and all Owners shall be provided with keys. Said common lock may not be changed or removed without the approval of a majority of the Owners.

(ii) Use of the Easement Parcel B is confined to the Owners, tenants, residents, guests, invitees and agents and servants of the Owners of Row House Parcel 5 for the use, benefit and enjoyment of the Parking Garage Roof Deck.

C. Maintenance of Easement Areas.

(i) Easement Parcel A shall be maintained by all the Owners. All decisions relative to maintenance matters shall be made by a simple majority of the Owners with each Row House entitled to one (1) vote. The Row House and Garage Space Owners shall each be responsible for the maintenance of any lighting or other utilities relative to the Easement Parcel A deemed necessary. Each Owner shall have the obligation to pay any of the necessary maintenance or operational costs set forth herein. Each Owner shall be obligated to pay one-fifth of any maintenance or operational costs relating to the Easement Parcel A.

(ii) Easement Parcel B shall be maintained by the Owners of Row House Parcel 5. The Owners of Row House Parcel 5 shall be solely responsible for the maintenance, repair or replacement of the Parking Garage Roof Deck.

Any disputes regarding maintenance matters as set forth herein, or in paragraph 4.4 hereof which cannot be resolved by the Owners will be submitted for arbitration to the American Arbitration Association in accordance with their rules and regulations and their decision shall be binding.

2.7 EASEMENTS FOR ROOF DECKS, PARKING GARAGE, FENCES AND PARKWAYS:

A. Roof Decks. Declarant has created roof decks at the top of each Row House. Declarant reserves unto itself and each Owner, successor, or assign, a right for such roof decks to rest upon and over the roof area, as shown on the Plat, and as the same exists or as is proposed by Declarant as of the date of the recording hereof, but not otherwise, together with the right of each Owner to go upon the roof deck located on the roof over such Owner's Row House for general use, repairing, maintaining or reconstruction of said roof deck in conformance with the size and style as exists or as proposed as of the date of the recording hereof and in conformance with this Declaration.

B. Parking Garage. Declarant has created a Parking Garage located on the North portion of the Land consisting of the five (5) Parking Spaces. The garage exitway provides ingress and egress to, from and through the Parking Garage to the walkway and which garage exitway and walkway are referred to herein as Easement Parcel A. Declarant reserves unto itself and each Owner,

successor, or assign, a right for each Garage Space to rest upon and in the Parking Garage, as shown on the Plat, and as the same exists or as is proposed by Declarant as of the date of the recording hereof, but not otherwise, together with the right of each Owner to go upon and into the such Owner's Garage Space located in the Parking Garage for general use, repairing, maintaining or reconstruction of said Garage Space in conformance with the size and style as exists or as proposed as of the date of the recording hereof and in conformance with this Declaration. It shall be expressly prohibited for any Owner to cause the placement of any locks whatsoever on the exterior door located in or on the Parking Garage and which makes up a part of the garage exitway, or to engage in any action which would block or obstruct ingress and egress over, upon and through the garage exitway more fully described as Easement Parcel A.

C. **Fences and Parkways.** Any fence which lies on any Row House Owner's property shall be maintained by such Owner. In addition, the Declarant has created planting and patio areas along or adjacent to the entrance of each Row House. Any parkway, planting, patio area or fence adjacent to each Row House shall be maintained by the Owner of that Row House. Further, each Owner of a Row House shall be charged with the obligation of the maintenance of the exterior of said Row House and the Owners of the Garage Spaces shall be charged with the obligation of the maintenance of the exterior of the Parking Garage. A reciprocal easement exists between the Owners of the Row Homes and Garage Spaces to facilitate said maintenance in the event a Row House Owner fails to properly maintain said fence, parkway, patio or exterior areas.

2.8 **EASEMENT IN PERPETUITY:** All easements and rights described herein are easements appurtenant to and running with the land, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns and any Owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof.

2.9 **REFERENCE TO EASEMENTS:** Reference in the respective deeds of conveyance or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration, shall not be required, but any such reference in an instrument, if contained therein, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees of such parcels as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

2.10 **REFERENCE TO MAINTENANCE:** Reference in this Declaration to Maintenance shall serve to charge the respective Owner with the obligations and duties of effectuating said maintenance. Any failure to properly maintain those portions of the property as set forth in this Declaration shall create a right of action in favor of any other Owner to enforce the obligations and duties imposed herein.

ARTICLE III

RESTRICTIONS

3.1 **EXTERIOR:** Declarant has taken great care and expended substantial sums to create an architectural design and style reflecting continuity of the Row Homes and Parking Garage with each other and the neighborhood in general. Accordingly, any structural or physical alterations or modifications to the exterior or structure of the Row Homes or Parking Garage including without limitation color changes are expressly prohibited. This prohibition includes, but is not limited to, the masonry and wooden partitions, if any, as well as doors, windows, roof lines, roof decks and fences.

3.2 **ADDITIONS:** Declarant has caused the design of the Row Homes to provide for a maximum amount of living space in proportion to the size of the lot upon which the Row Homes and Parking Garage are constructed. Accordingly, no additions or structures or other enclosures may be constructed on the Row Homes or Parking Garage or the Lots which they occupy.

3.3 **INSURANCE:** No Owner shall permit anything to be done or kept in his Row House or Garage Space which will result in the increase in the rate charged or in the cancellation of any insurance carried by any other Owner, or which would be in violation of any law.

3.4 **NOXIOUS USE:** Nothing shall be done in any Row House or Garage Space of a noxious or offensive nature, nor shall any outside lighting or loudspeakers or other sound producing devices be used which will interfere with the quiet use and enjoyment of other adjacent Row House or Garage Space Owners. Owners shall be prohibited from using the rooftop areas of the Row Homes for open fires or other unsafe flammable uses. Barbecues are permitted on the roof deck areas of each of the Row Homes subject to any laws, statutes or ordinances that may be adopted from time to time by the City of Chicago. The interior and exterior of the Row Homes and Garage Spaces shall be maintained by the Owner in a clean sanitary and attractive condition. Owners shall also maintain, cultivate and keep in good condition all trees, grass, shrubs and other landscaping, and keep all waste and refuse in sanitary containers.

3.5 **DIVISION OF ROW HOUSE AND GARAGE SPACE PROHIBITED:** Any division of a Row House Parcel and Garage Space Parcel in the form of the sale of one without the other, or in any form whatsoever, is expressly prohibited. It is the intention of the Declarant that each Garage Space Parcel shall be sold with each Row House Parcel as one piece of property, and this requirement shall run with the land and shall be binding upon Declarant, its successors and or assigns, and all subsequent Owners of any Row House.

ARTICLE IV

PARTY WALLS ROOF and EASEMENT AREAS COMMON EXPENSES

4.1 **PARTY WALL DESCRIPTION:** Each Row House has either one (1) or two (2) party walls comprising the side demising walls of the dwelling units (which may also be referred to herein as a dividing wall) and running in an East to West direction (hereinafter referred to as "row home party wall(s)"). Said party walls are constructed of either masonry or of wood frame and

plasterboard materials or both. The wall separating one Row House from another or that portion of the wall separating Row House Parcel 5 from the Parking Garage is herewith declared as a party wall. The Declarant herewith sets forth the rights, duties and obligations in connection with said party walls.

4.2 DECLARATION:

A. The row home party wall separating two (2) Row Homes shall be for the exclusive use and benefit of the Row Homes which share said wall, their respective Owners, heirs, legal representatives, successors, and assigns subject to the terms of this Declaration.

B. Each of the Owners of the Row Homes sharing a row home party wall may use said party wall in any manner which shall not materially interfere with the use and enjoyment thereof by the other.

C. Any and all costs and expenses necessary for the maintenance and preservation of a row home party wall in good condition and repair shall be borne equally between the Row House Owners who share said party wall; provided, however that if at any time, the Row House on one side of the party wall has been removed, the Owner of the Row House that shared said wall which remains shall bear the sole cost of so maintaining and preserving the party wall after the Owner of the Row House which was removed has performed the necessary construction to allow said remaining wall to be a proper exterior wall in accordance with the material and quality and design of other exterior walls on the Row Homes.

D. Declarant hereby sets forth that if it shall hereafter become necessary or desirable to repair or replace the whole or any portion of a row home party wall, the expense of such repairing or rebuilding shall be shared equally by the Row House Owners who share said row home party wall, and whenever the row home party wall or such portion thereof shall be rebuilt, it shall be erected in the same location and on the same line, and be of the same size, and the same or similar material, and of like quality with the present row home party wall, except where said row home party wall shall no longer be a shared party wall, but become an exterior wall, then in that case, the material and quality shall be similar to the material and design of other exterior walls on the Row Homes.

Notwithstanding anything herein contained to the contrary, it is further agreed that in the event of damage or destruction of a party wall from any cause, other than the negligence of the Owners sharing said party wall, and other than on account of fire or other casualty to one of the Row Homes sharing a row home party wall the parties sharing said party wall shall have the right to repair or rebuild the party wall, and (i) the expense thereof shall be apportioned as hereinabove provided, and (ii) each Owner shall have the full use of the party wall so repaired or rebuilt. If damage to or destruction of the party wall shall have been caused by loss by fire or other casualty to the property of, or by the negligence of one party sharing said party wall, such party shall bear the entire cost of repair or rebuilding. If a party sharing said party wall shall neglect or refuse to pay his share as aforesaid, the other party(s) may have the party wall repaired or rebuilt and, in addition to any other remedy available to such party by law, shall be entitled to have a mechanic's lien on the premises of

the party so failing to pay in the amount of such defaulting party's share of the repair or rebuilding cost. Any repairing or rebuilding done hereunder shall be performed timely and in a good and workmanlike manner, and to the extent possible, accomplished without interruption to the normal usage of the Row Homes which share said row home party wall.

E. Each owner sharing a party wall is licensed by the other Owner(s) who shares said wall, upon reasonable notice and proof of need, to enter upon the other party's premises for the limited and express purpose of erecting, repairing or rebuilding the party wall as hereinabove provided; provided, however, that no such erecting, repairing or rebuilding shall impair or diminish the then existing structural integrity of the other's Row House.

F. All references to party walls contained herein shall also apply to the scuppers and drains which may run along, upon or within said party walls, and the portion of this Declaration relating to party walls shall also relate to said scuppers and drains as well.

G. In the event the Row House of one party is no longer connected to the party wall, the other Owner, at such time as it removes and disconnects its Row House from the party wall, shall demolish and remove the party wall at its sole cost and expense, leaving said wall in a suitable condition to remain as an exterior wall, and then and thereafter this Party Wall Agreement shall terminate and neither party shall have any right, duty or obligation hereunder (except to fulfill his obligation hereunder which shall have accrued up to and including the date of such termination).

H. The benefits and burdens of the covenants herein contained shall annex to and be construed as covenants running with the aforesaid parcels or Lots herein described and shall bind the respective parties hereto and their respective heirs, legal representatives, successors and assigns. Nothing herein contained, however, shall be construed to be a conveyance by either party of his respective rights in the fee of the real estate on which the party wall shall stand.

I. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to neglect or willful acts or omissions, shall apply thereto.

4.3 **EASEMENT AREAS:** The Easement Parcel A has been designated herein to provide for ingress and egress to and from the Garage Spaces. It is therefore agreed that the costs relative to the maintenance, repair and replacement of Easement Parcel A shall be shared equally by the owners of the five (5) Row Homes and five (5) Garage Spaces. All decisions relative to the maintenance, repair and replacement of Easement Parcel A shall be determined by a majority of the Row House Owners with each Row House entitled to one (1) vote.

Easement Parcel B has been designated herein for the sole use, benefit and enjoyment of the Owner of Row House Parcel 5. It is therefore agreed that the costs relative to the maintenance, repair and replacement of Easement Parcel B shall be borne solely by the Owner(s) of Row House Parcel 5.

4.4 ROOF:

A. One (1) roof has been constructed for all of the five (5) Row Homes which occupy the tract of land. It is hereby declared that it is the obligation of the Owner of each Row House to maintain its roof covering its Row House. Said obligation to maintain the roof shall extend to and include the obligation to prevent leakage or penetration into adjacent Row Homes or Garage Spaces. In the event that maintenance of the roof shall require repairing, servicing or replacement of the roof covering a Row House, for any reason, then in that event, the Owner of the Row House that has its roof area repaired, serviced, or replaced, shall pay any and all costs and expenses thereof where such repair, service or replacement has occurred. However, in the event it shall be determined by a majority of the Row House Owners that the entire roof is in need of replacement, with each Row House entitled to one (1) vote, then the roof shall be replaced and any and all costs and expenses thereof shall be shared equally by all of the Owners. If an Owner shall neglect or refuse to pay his share as aforesaid, the other Owners may have the roof replaced and, in addition to any other remedy available to such party by law, shall be entitled to have a mechanic's lien on the Row House of the Owner so failing to pay his share, in the amount of such Owner's share of the replacement cost.

B. One (1) roof has been constructed for all of the five (5) Garage Spaces which occupy the tract of land. In the event that maintenance of the garage roof shall require repairing, servicing or replacement of said roof, and it is determined by a majority of the Owners that the garage roof is in need of repair or replacement, with each Row House entitled to one (1) vote, then the garage roof shall be repaired or replaced and any and all costs and expenses thereof shall be shared equally by all of the Owners. If an Owner shall neglect or refuse to pay his share as aforesaid, the other Owners may have the garage roof repaired or replaced and, in addition to any other remedy available to such Owners by law, they shall be entitled to have a mechanic's lien on the Row House of the Owner so failing to pay his share in the amount of such Owner's share of the repair or replacement cost.

C. Notwithstanding anything herein contained to the contrary, it is further agreed that in the event of damage or destruction to the roof from any cause, other than the negligence of an Owner, and other than on account of fire or other casualty to one of the Row Homes or the Parking Garage, then the Owners sharing said roof shall have the right to repair or rebuild the roof, and (i) the expense thereof shall be paid as hereinabove provided, and (ii) each Owner shall have the full use of the roof so repaired or rebuilt. If damage to or destruction of the roof shall have been caused by loss by fire or other casualty to the property of, or by the use or negligence of one Owner, such Owner shall bear the entire cost of repair or rebuilding. If any Owner shall neglect or refuse to make repairs to or replace its roof as may be needed so as to cause damage to another Row House then the other Owners may have the roof repaired or rebuilt and, in addition to any other remedy available to them by law, shall be entitled to have a mechanic's lien on the premises of the Owner so failing to pay the amount of such repair or rebuilding cost. Any repairing or rebuilding done hereunder shall be performed timely and in a good and workmanlike manner, and to the extent possible, accomplished without interruption to the normal usage of the Row Homes which share said roof.

D. Each Owner is licensed by the other Owners, upon reasonable notice and proof of need, to enter upon the other Owner's premises for the limited and express purpose of repairing or

rebuilding a roof as hereinabove provided; provided, however, that no such repairing or rebuilding shall impair or diminish the then existing structural integrity of the others Row House.

E. The benefits and burdens of the covenants herein contained shall annex to and be construed as covenants running with the aforesaid Row Homes and Garage Spaces or Lots herein described and shall bind the respective Owners hereto and their respective heirs, legal representatives, successors and assigns. Nothing herein contained, however, shall be construed to be a conveyance by any party of their respective rights in the fee of the real estate on which the roof shall stand.

F. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls or roof maintenance obligations and liability for property damage due to neglect or willful acts or omissions, shall apply thereto.

G. Notwithstanding the foregoing, the developer has also constructed certain roof rooms, penthouse rooms or other similar structures each of which will have its own separate roof, and such a roof shall not be considered part of the common roof and shall be maintained solely by the Owner of the Row House where such additional roof room or penthouse is located.

ARTICLE V

CASUALTY AND INSURANCE

5.1 **RECONSTRUCTION:** In the event that any Row House or the Garage Space shall be damaged or destroyed by fire, other casualty or any other cause or event whatsoever, the Owner thereof shall cause it to be repaired, restored or rebuilt, as the case may be, as rapidly as reasonably possible, to the condition as near as possible in which such property was immediately prior to such damage or destruction.

5.2 **INSURANCE:** To assure the prompt repair, restoration or rebuilding of any Row House or Garage Space damaged or destroyed by fire or other casualty, each Owner shall maintain in full force, from time to time, insurance covering the Row House and Garage Space owned by him, consisting of or providing at a minimum all the protection afforded by the insurance generally described as fire, extended coverage, vandalism and malicious mischief, to 100% of the full insurable value thereof, with loss payable on the basis of the cost of replacement without deduction for depreciation. In addition the Owner of Row House Parcel 5 shall maintain insurance against any and all liability which may be incurred or arise in connection with the use, enjoyment and maintenance of the Parking Garage Roof Deck.

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ARTICLE VI

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MISCELLANEOUS AND EXECUTION

6.1 **NONWAIVER OF COVENANTS:** No covenant, restriction, condition, obligation or provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

6.2 **SUCCESSORS AND ASSIGNS:** Each grantee of the Declarant, and each subsequent grantee, by the acceptance of a deed of conveyance, and each purchaser under any contract for such deed of conveyance, accepts said deed or contract subject to all restrictions, conditions, covenants, easements, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration and shall be deemed to have agreed to perform all undertakings and to be bound by all agreements and covenants imposed on him by this Declaration. All rights, benefits and privileges of every character hereby granted, created, reserved or declared and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in the property, and shall inure to the benefit of such grantee or purchaser in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance. All rights granted specifically to Declarant under this Declaration shall be binding upon the successors and assigns of Declarant, provided, however, that the Owners shall not be deemed to be the successors and assigns of Declarant for purposes of this paragraph.

6.3 **ENFORCEMENT:** Any violation on the part of an Owner of any of the restrictions, covenants, terms or conditions of this Declaration to be kept, observed or performed by him and which will or is likely to result in damages which are irreparable or impossible of ascertainment, then any other Owner is hereby granted the right to prevent or remedy any such threatened or actual violation on the part of any Owner, or the further continuation of any such violation, as the case may be, by means of injunction proceedings or other legal remedies. The various rights and remedies herein granted shall be in addition to all other rights and remedies which may be available. All said rights and remedies may be exercised either currently or consecutively or partly concurrently and partly consecutively as the case may be.

In the event of any dispute regarding the terms or the enforcement of this Declaration, any Owner may request that the matter be submitted for arbitration before the American Arbitration Association. In the event that any sums become due from an Owner pursuant to a charge for maintenance, repair or any other matter as determined by a majority of the Owners (with each Row House being entitled to one (1) vote), or under the terms of this declaration, then said amount shall become a lien against the Row House which has failed to pay said sum. Any and all costs of collection against a non paying Owner shall be added to the sum due and become a further charge or lien as set forth herein.

6.4 **SURVIVAL:** If any term, provision, covenant, easement, agreement or condition in this Declaration shall be or be held invalid, whether in general or as to any particular situation or circumstance, the remainder of this Declaration and the applicability to any other situation or circumstance, as the case may be, shall not be invalidated or terminated thereby, but shall remain in full force and effect to all intents and purposes as though such invalid term, provision, covenant, easement, agreement or condition had never been.

If any of the covenants or rights created by this Declaration would otherwise violate (a) the rule against perpetuities or some analogous statutory provision, or (b) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the incumbent President of the United States of America.

6.5 **GENDER OF TERMS; NUMBERS:** As used in this Declaration, the masculine shall mean the feminine or neuter and singular shall mean plural where the context requires to preserve the meaning of the appropriate provision.

6.6 **SUPERIORITY:** Anything herein to the contrary notwithstanding, nothing contained herein shall be construed to supersede any ordinance of the City of Chicago, Illinois, affecting the property or any portion thereof.

6.7 **LAWS OF ILLINOIS:** This agreement shall be construed in conformity with the laws of the State of Illinois and in accordance with the usage in said State of Illinois regarding party walls and easements. The rule of strict construction does not apply to the easements granted herein, and specifically including Easement Parcel A and Easement Parcel B. The easement grants contained in this Declaration shall be given a reasonable construction so that the intention of the Declarant to confer a commercially usable right of enjoyment to the Row House Owners is carried out.

The purpose of Easement Parcel A set forth in this Declaration is to provide ingress, egress and access to and from the Garage Spaces. The purpose of Easement Parcel B set forth in this Declaration is to provide exclusive use and enjoyment of the Parking Garage Roof Deck to the Owner of Row House Parcel 5.

The dominant tenement shall be considered to be the structures located on the tract of land legally described on Exhibit A attached hereto (the Row Homes and Parking Garage) and not the land on which said structures rest.

6.8 **MODIFICATIONS:** This agreement contains all the terms, conditions and covenants relating to the Row Homes and Parking Garage described herein and no modifications, waivers, variations, or releases of duties and obligations under this agreement shall be binding unless made in writing and signed by the Owners affected herein. In the event any modification of this Agreement is desired as it relates to exterior modifications to any of the Row Homes or the parking Garage as set forth in Article 3.1 hereof, then, in that event, the affected Owner shall be construed as all of the Owners.

6.9 NOTICE: Any notice required or desired to be given under the provisions of this Declaration to any Owner shall be deemed to have been properly delivered when deposited in the U.S. mail, postage prepaid, directed to the last known person who appears as an Owner or other person, at the last known address for each such person which is publicly listed if other than the address of the Row House.

IN WITNESS WHEREOF, James Jaeger and Eric Haake have caused this Declaration to be signed on the day and year first written above.

James Jaeger
James Jaeger

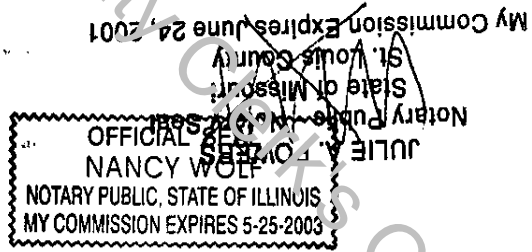
Eric Haake
Eric Haake

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that JAMES JAEGER personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal
this 21st day of December, 1999 12/23/99

Nancy Wolf
Notary Public

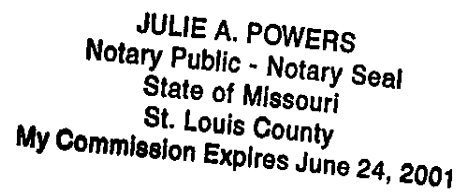


STATE OF MISSOURI)
) SS
COUNTY OF St. Louis)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that ERIC HAAKE personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal
this 21st day of December, 1999

Julie A. Powers
Notary Public



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EXHIBIT "A"

09198530

LEGAL DESCRIPTION

LOTS 16 AND 17 IN WILLIAM ZELOSKY'S SUBDIVISION OF BLOCK 24 IN EXECUTOR'S OF W. E. JONES SUBDIVISION OF SECTION 19, TOWNSHIP 40 NORTH, RANGE 14, (EXCEPT THE SOUTH WEST 1/4 OF THE NORTH EAST 1/4 AND EXCEPT THE SOUTH EAST 1/4 OF THE NORTH WEST 1/4 AND EXCEPT THE EAST 1/2 OF THE SOUTH EAST 1/4) IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS 2200 WEST ADDISON AND
3602-3608 NORTH LEAVITT IN CHICAGO, ILLINOIS

P.I.N.: 14-19-127-037-0000

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EXHIBIT 'B'

PLAT OF SURVEY

09198530

Property of Cook County Clerk's Office