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## CORRECTIVE RECORDING AFFIDAVIT

THIS FORM IS PROVIDED COMPLIMENTS OF  
KAREN A. YARBROUGH, COOK COUNTY  
RECORDER OF DEEDS, AS A COURTESY FORM  
WHICH MAY BE USED TO DETAIL A DESIRED  
CORRECTION TO A PREVIOUSLY RECORDED  
DOCUMENT. CUSTOMER'S MAY USE THEIR OWN  
AFFIDAVIT AS WELL, BUT IT MUST INCLUDE ALL  
OF THE BELOW REQUIRED INFORMATION. THIS  
FORM DOES NOT CONSTITUTE LEGAL ADVICE.

Doc# 2102822001 Fee \$185.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 01/28/2021 09:48 AM PG: 1 OF 58

PREPARER: Tenenbaum Law Group

THE COOK COUNTY RECORDER OF DEEDS (CCRD) NO LONGER ACCEPTS RE RECORDINGS, BUT INSTEAD OFFERS CORRECTIVE RECORDINGS. DOCUMENTS ATTEMPTING TO UPDATE A PREVIOUSLY RECORDED DOCUMENT MUST INCLUDE THE FOLLOWING INFORMATION, PLUS A CERTIFIED COPY OF THE ORIGINAL.

I, Gerard Scheffler, THE AFFIANT, do hereby swear or affirm, that the attached document with the document number: 2035922001, which was recorded on: 12-24-2020 by the Cook County Recorder of Deeds, in the State of Illinois, contained the following ERROR, which this affidavit seeks to correct:

DETAILED EXPLANATION (INCLUDING PAGE NUMBER(S), LOCATION, PARAGRAPH, ETC.) OF ERROR AND WHAT THE CORRECTION IS. USE ADDITIONAL SHEET IF MORE SPACE NEEDED FOR EXPLANATION OR SIGNATURES.

Correcting Plat of Survey attached as Exhibit D.  
Correcting Parking Spaces

Furthermore, I, Gerard Scheffler, THE AFFIANT, do hereby swear or affirm, that this submission includes a CERTIFIED COPY OF THE ORIGINAL DOCUMENT, and this Corrective Recording Affidavit is being submitted to correct the aforementioned error. Finally, this correction was approved and/or agreed to by the original GRANTOR(S) and GRANTEE(S), as evidenced by their notarized signature's below (or on a separate page for multiple signatures).

Gerard Scheffler  
PRINT GRANTOR NAME ABOVE

GRANTOR SIGNATURE ABOVE

1-27-2021  
DATE AFFIDAVIT EXECUTED

Gerard Scheffler  
PRINT GRANTEE NAME ABOVE

GRANTEE SIGNATURE

1-27-2021  
DATE AFFIDAVIT EXECUTED

GRANTOR/GRANTEE 2 ABOVE  
GERARD SCHEFFLER  
ASPEN REALTY PARTNERS  
PRINT AFFIANT NAME ABOVE

GRANTOR/GRANTEE 2 SIGNATURE

DATE AFFIDAVIT EXECUTED

AFFIANT SIGNATURE ABOVE

1-27-2021  
DATE AFFIDAVIT EXECUTED

NOTARY SECTION TO BE COMPLETED AND FILLED OUT BY WITNESSING NOTARY

STATE: ILLINOIS

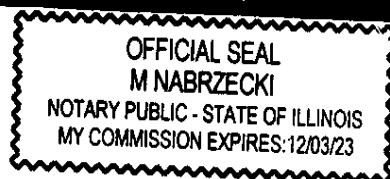
SS

COUNTY: COOK

Subscribed and sworn to me this 27 day of January, 2021

MARTA NABRZECKI  
PRINT NOTARY NAME ABOVE

M. Nabrzecki  
NOTARY SIGNATURE ABOVE



1-27-2021  
DATE AFFIDAVIT NOTARIZED

RECORDING FEE 185  
DATE 1/28/21 COPIES 6x  
CK BY R/1370

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This document was prepared by and after  
recording should be mailed to:

S. Aaron Tenenbaum, Esq.  
Slava Aaron Tenenbaum, Chartered  
2222 Chestnut Ave., Ste. 201  
Glenview, IL 60026



Doc# 2035922001 Fee \$329.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 12/24/2020 09:31 AM PG: 1 OF 66

**DECLARATION  
OF CONDOMINIUM OWNERSHIP AND EASEMENTS,  
RESTRICTIONS, COVENANTS AND BY-LAWS**

**2342 WEST FOSTER CONDOMINIUM ASSOCIATION**

THIS DECLARATION has been prepared and entered into this 19th day of December, 2020, by Aspen Realty Partners, LLC, an Illinois limited liability company (hereinafter, the "Owner" or "Declarant"):

**WITNESSETH:**

WHEREAS, Declarant owns in fee simple certain real estate, hereinafter described, in the City of Chicago, County of Cook, State of Illinois; and

WHEREAS, the Declarant intends to, and does hereby submit such real estate together with all buildings, structures, improvements, and other permanent fixtures of whatsoever kind thereon, all rights and privileges belonging or in anywise pertaining thereto, and any and all easements appurtenant thereto to the provisions of the Illinois Condominium Property Act; and

WHEREAS, the Declarant desires to establish certain rights and easements in, over, and on said real estate for the benefit of itself and all future owners of any part of said real estate, and any unit or units thereof or therein contained, and to provide for the harmonious, beneficial, and proper use and conduct of the real estate and all units; and

WHEREAS, the Declarant desires and intends that the several Unit Owners, mortgagees, occupants, and other persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of and shall hold their interests subject to the rights, easements, privileges, and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of the Property and are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Property.

NOW, THEREFORE, the Owner DECLARES as follows:

**ARTICLE I  
DEFINITIONS**

Certain words and terms used in this Declaration are defined as follows:

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- (a) Act - The Condominium Property Act of the State of Illinois, as amended from time to time.
- (b) Association - The Association of the Unit Owners acting pursuant to the By-Laws attached hereto through its duly elected Board. The Association shall be named "2342 West Foster Condominium Association".
- (c) Board - The board of managers of the Association as constituted at any time from time to time. In the event the Association is incorporated, the "Board" shall mean the Board of Directors of the incorporated Association.
- (d) Building(-s) - All structures, attached or unattached, containing one or more units.
- (e) Bylaws - The Bylaws of the Association.
- (f) Common Elements - All portions of the Property, whichever is applicable, except for the Units, including, without limiting the generality of the foregoing, the Parcel, stairways, corridors, roofs (but not rooftop decks, which are Limited Common Elements), garage structure, storage areas, sprinkler system, certain mechanical rooms and equipment therein, refuse collection system and structural parts of the improvements on the Parcel, wherever located.
- (g) Common Expenses - The proposed or actual expenses affecting the Property, including Reserves, if any, lawfully assessed by the Board, including, without limitation, the expenses of maintenance, repair, administration and operation of the Common Elements.
- (h) Condominium Instruments - All documents and authorized amendments thereto recorded pursuant to the provisions of the Act, including the Declaration, Bylaws, attached as Exhibit "B", and Plat.
- (i) Declaration - This instrument by which the Property is submitted to the Act.
- (j) Developer - Aspen Realty Partners, LLC, an Illinois limited liability company, its successors and/or assigns, or such other persons or entities as the owner may from time to time designate.
- (k) Declarant - Aspen Realty Partners, LLC, an Illinois limited liability company, may also be referred to as "Owner".
- (l) Developer's Lender or Centrust Bank NA - An owner of a bona fide first mortgage or first trust deed covering any portion of the Property.
- (m) Limited Common Elements - That part of the Common Elements contiguous to and serving a single Unit exclusively as an inseparable appurtenance thereto, or assigned to the specific Unit in this Declaration, including specifically such portions of the perimeter walls, floors and ceilings, windows and doors, balconies, and all fixtures and structures therein that lie outside the Unit boundaries, pipes, ducts, flues, electrical wiring or conduits, or other system or component part thereof that serve a Unit exclusively to the extent such system or component part is located outside the boundaries of a Unit.
- (n) Maintenance Fund or Maintenance Assessment(-s) - All money collected or received by the Association pursuant to the provisions of the Condominium Instruments.

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- (o) Majority or Majority of Unit Owners - The owners of more than 50% in the aggregate in interest of the undivided ownership of the Common Elements. Any specified percentage of the Unit Owners means such percentage in the aggregate in interest of such undivided ownership.
- (p) Occupant - A person or persons, other than a Unit Owner, in possession of a Unit.
- (q) Parcel - The Unit or Units, tract or tracts of land, submitted to the provisions of the Act, pursuant to the Declaration, as amended.
- (r) Parking Space or Parking Unit: The parking space designated on the Plat as limited common element and regulated pursuant to this Declaration, sometimes together referred to as Parking Area.
- (s) Person - A natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.
- (t) Plat - A plat or plats of survey of the Parcel and all of the Units in the Property submitted to the provisions of the Act, said plat being attached hereto as Exhibit "D" and made a part hereof and recorded with the recording of this Declaration and as amended from time to time in accordance herewith, which shall consist of a three dimensional horizontal and vertical delineation of all such Units and such other data as may be required by the Act.
- (u) Property - All land, property, and space comprising the Parcel, all improvements and structures erected, constructed, or contained therein or thereon, including the Building and garage, and all easements, rights, and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit, and enjoyment of the Unit Owners, submitted to the provisions of the Act.
- (v) Record - Record in the Office of the Recorder of Cook County, Illinois.
- (w) Reserves - Those sums paid by Unit Owners that are separately maintained by the Board for purposes specified by the Board or the Condominium Instruments.
- (x) Unit, also referred to as Dwelling Unit - Any part of the Property designed and intended for any type of independent use and designated on the Plat as a Unit.
- (y) Unit Owner - The person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit and its appurtenant undivided ownership interest in the Common Elements.
- (z) Unit Ownership - A part of the Property consisting of one Unit and its undivided interest in the Common Elements appurtenant thereto.
- (aa) Voting Member - one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Unit Owners, excluding those members of the Board of Directors designated by the Developer or Declarant.

## ARTICLE II LEGAL DESCRIPTION OF PROPERTY

2.01. Description. The Parcel hereby submitted to the provisions of the Act is legally described in Exhibit "A" attached hereto and made a part hereof.

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## ARTICLE III USE AND OWNERSHIP OF THE COMMON ELEMENTS

3.01. Description. Except as otherwise provided in this Declaration, the Common Elements shall consist of all portions of the Property except the Units. Without limiting the generality of the foregoing, the Common Elements shall include the parcel, outside walks, driveways, the landscaping, stairways, elevator, sprinkler system, halls, entrances and exits, roof, all structural parts of the Building, pipes, ducts, flues, chutes, wires and other utility installations to the outlets, and such component parts of walls, floors and ceiling as are not located within the Unit.

It is understood that each unit consists of the space enclosed or bounded by the horizontal and vertical planes set forth and identified as a unit in the delineation thereof in Exhibit "D". All Units are delineated on the Plat and made a part of this Declaration. The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown on the Plat. Said Units are legally described on Exhibit "A" attached hereto and made a part hereof.

3.02. Limited Common Elements. The Limited Common Elements are such parts of the Common Elements serving exclusively a single Unit or adjoining Units as an inseparable appurtenance thereto, as designated as such in this Declaration, including in the Plat, or which by the nature or location thereof, or by the terms of this Declaration, are clearly intended to be reserved for or for the use of one or more Units to the exclusion of other Units. The Limited Common Elements are pertaining to, or designated or reserved for or for the use of, or serving any Unit (alone in or in conjunction with other Units) are hereinafter from time to time referred to as the Limited Common Elements of such Unit. The Limited Common Elements shall include, but shall not be limited to, the following: (i) the interior surface of the perimeter walls, ceilings and floors which define the boundary planes of a Unit; (ii) perimeter doors and windows which serve exclusively a single Unit; (iii) any system or component part thereof which serves a Unit exclusively, to the extent that such system or component part is located outside the boundaries of a Unit which shall include balconies, decks, deck landings, spaces below the decks and patios; and (iv) the Parking Spaces. All expenses associated with maintenance of Limited Common Elements, if any needed, shall represent at all times a common maintenance obligation of the Association. However, if it shall be determined that the Limited Common Elements require restoration due to negligent actions or excessive wear and tear by the Unit Owners to which unit such Limited Common Elements are assigned, such restoration shall be responsibility of said specific Unit Owners.

Each Unit Owner and Occupant shall have the right to (a) the exclusive use and possession of the Limited Common Elements serving exclusively the Dwelling Unit of such Unit Owner, which right shall be appurtenant to and shall run with the title of such Dwelling Unit, and shall not be separated from such Dwelling Unit, and (b) the use and possession of the Limited Common Elements serving the Dwelling Unit of such Unit Owner in common with one or more (but not all) other Dwelling Units, which use and possession shall be to the exclusion of all other persons except the Unit Owner of any such other Dwelling Unit to which such Limited Common Elements shall respectively appertain. The use of Limited Common Elements may be transferred between Unit Owners at their expense in accordance with the Act. Each such transfer shall be made by an Amendment to the Declaration executed by the Unit Owners, who are parties to the transfer, and by the Board.

### 3.03. Parking Spaces Limited Common Element.

(a) The legal description of each Parking Space Limited Common Element (Parking Space) shall consist of the identifying symbol of such Parking Spaces as shown on Exhibit "D" and every such description shall be deemed good and sufficient for all purposes, and the Parking Spaces Limited Common



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Elements are assigned on and by the Plat of Survey attached as Exhibit "D". The owner of each Unit shall have, as a right and benefit appurtenant to its Unit Ownership, one certain garage Parking Space allocated to its Unit for its perpetual and exclusive use to park a single, private, non-commercial automobile, motorcycle or similar vehicle, said allocation of the parking spaces shall be as indicated by Exhibit "D". Each deed, lease, mortgage, or other instrument affecting such Unit shall include the perpetual and exclusive use of the specific Parking Space so allocated and appurtenant thereto. Any such deed, lease, mortgage, or other instrument purporting to affect a Unit without also including a reference to the Parking Space appurtenant thereto shall be deemed and taken to include the said Parking Space and the perpetual and exclusive use thereof even though not expressly mentioned or described therein.

(b) Unit Owners may exchange (upon the recording of an amendment to this Declaration in accordance with Section 27 of the Act) or lease to another Unit Owner or an Occupant for as long as the Occupant occupies a Unit, Parking Spaces appurtenant to their Units. Unit Owners who have Parking Spaces appurtenant to their Units have the right to sell their Parking Spaces to other Unit Owners, and, upon recording of an amendment to this Declaration in accordance with Section 26 of the Act, the Parking Spaces shall become appurtenant to the Units of the purchasers. No one other than the Unit Owner or Occupant as aforesaid shall have any interest in and to Parking Space for any purpose, unless permission in writing is given by the Association and the Unit Owner having the perpetual and exclusive use of the Parking Space.

(c) All Parking Spaces, access thereto, and the use thereof, shall be subject to such reasonable rules and regulations as may be established by the Association. Pursuant to the Illinois Condominium Property Act, the Owner or the Board of Managers may provide for the assessment, in connection with expenditures for the limited common elements, of only those units to which such limited common elements are assigned.

3.04. Ownership of Common Elements. Each Unit Owner and Occupant shall have the right to (i) the exclusive use and possession of the Limited Common Elements serving exclusively the Unit of such Unit Owner, which right shall be appurtenant to and shall run with title to such Unit, and shall not be separated from such Unit, and (ii) the use and possession of the Limited Common Elements serving the Unit of such Unit Owner in common with one or more (but not all) other Units, which use and possession shall be to the exclusion of all other persons except the Unit Owner of any such other Unit to which such Limited Common Elements shall respectively appertain.

Each Unit Owner shall own an undivided interest in the Common Elements, in the percentage set forth in Exhibit "C" attached hereto and made part hereof, as a tenant in common with all other Unit Owners. Such percentage is based on Owner's initial determination of relative values of the units, and include both square footage of the Unit and access to certain assigned Common Elements. Except for (1) portion of the Common Elements that have been assigned to the Unit Owners by the Board pursuant to the provisions of the Condominium Instruments, and (2) the Limited Common Elements, each Unit Owner, his or her agents, permitted Occupants, family members, and invitees shall have the right to use the Common Elements for all purposes incident to the use and occupancy of his or her Unit as a place of residence and such other incidental uses permitted by the Condominium Instruments, which right shall be appurtenant to and run with his or her Unit. Each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements contiguous to and serving only his or her Unit and the Limited Common Elements access to which is available only through his or her Unit. The right to the exclusive use and possession of the Limited Common Elements as aforesaid shall be appurtenant to and run with the Unit of such Unit Owner.

3.05. No Partition of Common Elements. There shall be no partition of the Common Elements through judicial proceedings or otherwise until the Property is withdrawn from the terms of this Declaration or any statute applicable to condominium ownership, provided, however, that if any Unit Ownership shall be owned by two (2) or more co-owners as tenants in common or joint tenants, nothing herein contained shall

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be deemed to prohibit a voluntary partition of said Unit Ownership as between such co-owners during the term of such Unit Ownership only.

3.06. Owner's, Association and Municipal Authorities Easements. Such rights to use and possess the Common Elements shall be subject to a blanket easement over the Common Elements in favor of Owner and its representatives, agents, associates, employees, contractors, subcontractors, tenants, successors and assigns, over, under and through said Common Elements, or any part thereof, for purposes of access and ingress to and egress from said Common Elements, and for purposes of marketing, sales, brokerage, construction, installation, repair, replacement and restoration of utilities, driveways, buildings, landscaping and any other improvements on said Common Elements until Owner is no longer a Unit Owner or all construction of improvements is completed, whichever is later.

Non-exclusive easements are hereby declared and granted to the Association over paved driveways, walkways and sidewalks for the purpose of snow removal and maintenance. Non-exclusive easements for ingress and egress are hereby declared and granted to the Association and Unit Owners, and Owners' agents, contractors, invitees and guests, for vehicular and pedestrian access to and from any publicly dedicated thoroughfares abutting the Property, over, upon and through those portions of driveway and paved or designated sidewalks.

Police, fire, water, health, engineering, development and other authorized officials of the City of Chicago shall have the right of and are hereby granted ingress and egress to the Common Elements and Limited Common Elements for performance of official duties and for the purpose of enforcing all municipal ordinances and statutes of the State of Illinois, to prevent illegal activities, and to correct or eliminate nuisances or violations resulting from the failure to exercise maintenance responsibilities by the Unit Owners or the Association.

3.07. Easements to Run with the Land. All easements and rights on or with respect to the Property are easements appurtenant to and running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Owner and its successors and assigns, every Unit Owner and his or her heirs, grantees, successors and assigns, and the Association.

3.08. Creation of Easements. Reference to the easements and rights described in any part of this Declaration shall be sufficient to create such easements and rights and any subsequent conveyance of any Unit shall be deemed to include such easements and rights as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such conveyance.

## ARTICLE IV GENERAL PROVISIONS AS TO UNITS AND COMMON ELEMENTS

4.01. Submission of Property to Provisions of the Act. The Property is hereby submitted to the provisions of the Condominium Property Act of the State of Illinois.

4.02. No Severance of Ownership. No Unit Owner shall execute any deed, mortgage, lease or other instrument affecting title to his or her Unit Ownership without including therein both his interest in the Unit and his corresponding percentage of ownership in the Common Elements, it being the intention hereof to prevent the severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

4.03. Encroachments and Easements.

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(a) If any part of the Common Elements encroaches or shall hereafter encroach on any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach on any part of the Common Elements, or any portion of any Unit encroaches on any part of any Unit as a result of the construction, repair, reconstruction, settlement, or shifting of the Building, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of such Unit or Common Elements so encroaching as long as all or any part of the Building containing such Unit or Common Elements so encroaching shall remain standing; provided, however, that after the date this Declaration is recorded, a valid easement for and encroachment shall in no event be created in favor of any owner of a Unit other than the Declarant or the Developer or in favor of the owners of the Common Elements if such encroachment occurred due to the willful conduct of said Unit Owners.

(b) 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, and electrical conduits, wires, and equipment over, under, along, and on any part of the Common Elements, as they exist on the date of the recording hereof.

(c) Upon approval by 100% of the Unit Owners, portions of the Common Elements may be dedicated to a public body for purposes of streets or utilities. When such a dedication is made, nothing in the Act or any other law shall be construed to require that the real property taxes of every Unit must be paid before recordation of the dedication. Upon approval by a Majority of the Unit Owners, an easement may be granted for the laying, maintenance, and repair of cable television cable. Upon approval by a Majority of the Unit Owners, an easement may be granted to a governmental body for construction, and repair of a project for protection against water damage of erosion. Any action pursuant to this Article must be taken at a meeting of Unit Owners duly called for that purpose.

(d) All easements and rights described herein are easements appurtenant, running with the Parcel, 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 the Parcel, or any part or portion thereof.

(e) 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 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.

## 4.04. Use of Common Elements.

(a) General. Subject to the provisions of this Declaration, each Unit Owner shall have the nonexclusive right to use the Common Elements (except the Limited Common Elements) in common with the other Unit Owners. As may be required for the purpose of ingress and egress to, and use, occupancy and enjoyment of the respective Unit owned by such Unit Owner, and such other incidental uses as are permitted by this Declaration. Each Unit Owner shall have the right to the use and possession of the Limited Common Elements serving his Dwelling Unit. Such rights to use and possess the Common Elements, including the Limited Common Elements, shall be subject to and be governed by the provision of the Act, this Declaration, and rules and regulations of the Association.

(b) Guest Privileges. The aforesaid rights shall extend to the Unit Owner and the members of the immediate family and authorized occupants, tenants, guests, visitors, agents, servants, invitees, customers and licensees of the Unit Owner, subject to reasonable rules and



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regulations with respect thereto.

(c) No Bailee Liability. Notwithstanding anything to the contrary contained in this Declaration, neither the Board, the Association, any Unit Owner, the Declarant, nor the Developer shall be considered a bailee of any personal property stored in the Common Elements and shall not be responsible for the security of such personal property or for any loss or damage therein, whether or not due to negligence.

4.05. Pipes, etc. All pipes, wires, ducts, flues, chutes, conduits, sprinkler system, public utility lines (to the outlets), and structural components located in or running through a Unit and serving more than one Unit or another Unit or serving, or extending into, the Common Elements, or any part thereof, shall be deemed part of the Common Elements but shall not be deemed to be Limited Common Elements. No Unit Owner may take any action that would interfere with the ability of the Association to repair, replace, or maintain said Common Elements as provided herein.

If any chutes, flues, ducts, sprinkler system, conduits, wires, bearing walls, bearing columns, or any other apparatus lies partially within and partially outside of the designated boundaries of a Unit, any portions thereof serving only that Unit shall be deemed a part of said Unit, while any portions thereof serving more than one Unit or any portion of the common elements shall be deemed a part of the Common Elements.

## 4.06. Maintenance, Repairs and Replacements.

(a) By Association. At its own expense, the Association shall be responsible for:

(i) All of the maintenance, repair, and replacement of those portions, if any, of each Unit which contribute to the support of the Building excluding, however, all interior doors and the interior surfaces of walls, ceiling and floors. In addition, the Association shall maintain, repair, and replace all pipes, wires, conduits, ducts, flues, shafts, elevator, and other facilities for the furnishing of utility services which may be located within the Unit boundaries and forming part of any system servicing more than one Unit, exclusive of any portions of the foregoing which may be located at or beyond the wall outlets, or which may be the responsibility of an individual Unit Owner under paragraph (b) below, or any other provision of this Declaration. Maintenance, repairs, and replacements of the Common Elements shall be furnished by the Association acting by and through the Board as part of the Common Expenses, subject to the By-Laws or rules and regulations of the Association.

(ii) All of the maintenance, repair, and replacements of the Limited Common Elements benefiting a Dwelling Unit, in whole or in part, except to the extent as otherwise directed by the Board or as is otherwise provided herein, shall be performed by the Association. Each Unit Owner shall be individually responsible for the repair, maintenance and replacement of all door and window locks and hardware with respect to which each Unit Owner is entitled to the exclusive use. The cost of such maintenance repairs and replacements of the Limited Common Elements shall be furnished by the Association acting by and through the Board as part of the Common Expenses, subject to the By-Laws or rules and regulations of the Association.

(iii) The Association shall maintain the Parking Area from and out of the Common Expenses at its sole cost and expense.

(b) By the Unit Owner. Except as otherwise provided in paragraph (a) above or paragraph (c), each Unit Owner shall furnish and be responsible for, at its own expense:

(i) All of the maintenance, repairs and replacement within its own Dwelling Unit, all doors

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appurtenant thereto, and all internal installations of such Dwelling Unit such as air conditioning units, refrigerators, ranges, and other kitchen appliances, lighting fixtures and other electrical fixtures and plumbing, and any portion of any other utility service facilities located within the Dwelling Unit; provided, however, that such maintenance, repairs and replacements as may be required for the bringing of water, electricity and natural gas to the Units, shall be furnished by the Board as part of the Common Expenses.

(ii) All of the decorating within its own Dwelling Unit (initially and thereafter from time to time), including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the common walls and the interior surfaces of the vertical perimeter walls, floors and ceiling of his Dwelling Unit, and such Unit Owner shall maintain such portions in good condition at his sole expense as may be required from time to time. Except with respect to improvements in place as of the date of the recording of this Declaration and except as to improvements made by the Declarant or the Developer, each Unit Owner who shall elect to install in any portion of his Dwelling Unit (other than in bath and powder rooms) hard surface floor covering (i.e., tile, slate, ceramic, parquet, etc.) shall be first required to install a sound absorbent under cushion of such kind and quality as to prevent the transmission of noise to another Dwelling Unit, the Board may, in addition to exercising all of the other remedies provided for in this Declaration for breach of any of the provisions hereof, require such Unit Owner to cover all non-conforming work with carpeting, or may require removal of such non-conforming work, at the expense of the offending Unit Owner. The interior surfaces of all windows forming part of a perimeter wall of a Dwelling Unit shall be cleaned or washed at the expense of each respective Unit Owner. The use of and the covering of the interior surfaces of such windows, whether by draperies, shades, or other items visible on the exterior of the Building, shall be subject to the rules and regulations of the Board as may be imposed from time to time.

(c) In the event that any repair or replacement to the Common Elements (including Limited Common Elements) is made necessary by reason of any act or occurrence for which insurance is maintained by the Board pursuant to this Declaration and for which insurance proceeds are available as provided in this Declaration, the Association, at its expense to the extent of such proceeds, and subject to Section 4.06 hereof, shall be responsible for the repair or replacement of such Common Elements.

(d) Nature of Obligation. Nothing herein shall be construed to impose a contractual liability upon the Association for maintenance, repair and replacement, but the Association's liability shall be limited to damages resulting from negligence. The respective obligations of the Association and Unit Owners set forth in this Declaration shall not be limited, discharged or postponed by reason of the fact that any such maintenance, repair or replacement is required to cure a latent or patent defect in material or workmanship in the construction of the Building, nor because they may become entitled to proceeds under policies of insurance. In addition, and notwithstanding anything herein above to the contrary, no Unit Owner shall have a claim against the Board or Association (or against the Declarant or Developer) for any work ordinarily the responsibility of the Board or Association, but which the Unit Owner himself has performed or paid for, unless the same shall have been agreed to in advance by the Board or Association or the Declarant.

**4.07. Negligence of Unit Owner.** If, due to the willful misconduct or negligent act or omission of a Unit Owner, or a member of his family or household pet or of a guest or other authorized occupant or visitor of such Unit Owner, damage shall be caused to the Common Elements or to a Unit owned by others, or maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Unit Owner shall pay for such damage and such maintenance, repairs and replacements as may be reasonably determined by the Board.

**4.08. Joint Facilities.** To the extent that equipment, facilities and fixtures within any Unit shall be

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connected to similar equipment, facilities or fixtures affecting or serving other Units or the Common Elements, then the use thereof by the individual Unit Owner shall be in all respects reasonable as it affects the other Unit Owners. The authorized representatives of the Association or the Board, or of the manager or managing agent for the Building, shall be entitled to reasonable access to the individual Units as may be required in connection with maintenance, repairs, or replacements of or to the Common Elements or any equipment or fixtures affecting or serving other Units or the Common Elements, or any Facilities.

## 4.09. Additions, Alterations, or Improvements.

(a) The Board may authorize and charge as a Common Expense (or in the case of Limited Common Elements may charge the Unit Owners benefited thereby) the cost of the additions, alterations, or improvements to the Common Elements. The cost of any such work to the Common Elements may be paid out of a special assessment.

(b) Except as otherwise provided in this Declaration, no additions, alterations or improvements shall be made by a Unit Owner to any part of the Common Elements and no additions, alterations or improvements shall be made by a Unit Owner to his Unit (where such work alters the structure of the Unit or increases the cost of insurance required to be carried by the Board hereunder) without the prior consent of the Board. The Board may (but shall not be required to) condition its consent to the making of an addition, alteration or improvement by a Unit Owner upon the Unit Owner's agreement either (i) to be solely responsible for the maintenance of such addition, alteration or improvement, subject to such standards as the Board may from time to time set, or (ii) to pay to the Association from time to time the additional cost of maintenance and/or insurance as a result of the addition, alteration or improvement. If an addition, alteration or improvement is made by a Unit Owner without the prior written consent of the Board, then the Board may, in its discretion, take any of the following actions:

(i) Require Unit Owner to remove the addition, alteration or improvement and restore the Property to its own original condition, all at the Unit Owner's expense; or

(ii) If the Unit Owner refuses or fails to properly perform the work required under (i), the Board may cause such work to be done and may charge the Unit Owner for the cost thereof as determined by the Board; or

(iii) Ratify the action taken by the Unit Owner, and the Board may (but shall not be required) to condition such ratification upon the same conditions which it may impose upon the giving of its prior consent under this Section.

## ARTICLE V ADMINISTRATION

5.01. Administration of Property. The direction and administration of the Property shall be vested in the Board of Directors (herein sometimes referred to as the "Board") which shall consist of three (3) persons, except as provided in Section 5.06 hereinafter, who shall be elected in the manner hereinafter set forth: provided, however, that, irrespective of anything else contained in this Declaration, for a period commencing on the date this Declaration is executed and ending upon the qualification of the directors elected at the initial meeting of Voting Members to elect the First Unit Owner's Board (as hereinafter defined), the Declarant or Developer shall have the right to designate and select the persons who shall serve as members of the Board or to exercise the powers of the Board as provided in the Act, except as otherwise provided in Section 5.06. Except for directors so designated by the Declarant or Developer, each member of the Board shall be one of the Unit Owners; provided, however, that in the event a Unit Owner is a limited liability company, corporation, partnership, trust or other legal entity other than a

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natural person or persons, then any designated agent of such company, corporation, partnership, or other legal entity, or beneficiary of such trust, shall be eligible to serve as a member of the Board. If a Unit Owner owns more than one Unit and is a company, corporation, partnership, trust or other legal entity, other than a natural person, then any number of agents or beneficiaries of such Unit Owner may be directors, provided that the number of such Unit Owner's agents or beneficiaries who become directors shall not exceed the number of Units owned by such Unit Owner. If a director fails to meet such qualifications during his term, he shall thereupon cease to be a director, and his place on the Board shall be deemed vacant.

5.02. Association. The Association has been formed prior to the recording hereof as a not-for-profit corporation under the General-Not-for-Profit Corporation Act of the State of Illinois and for the purposes and having the powers described in the Act, and having the name (or a name similar thereto) 2342 WEST FOSTER CONDOMINIUM ASSOCIATION and the Board of Directors of the Association shall be deemed to be the "Board of Managers" for the Unit Owners as referred to in the Act. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the use and benefit of Unit Owners in accordance with the provisions contained herein. Each Unit Owner shall be a member of the Association so long as he shall be a Unit Owner, such membership shall automatically terminate when he ceases to be a Unit Owner, and upon the transfer of his ownership interest the transferee thereof shall likewise succeed to such membership in the Association. The Association shall have one class of membership.

## 5.03. Voting Rights.

(a) Except as otherwise provided in Section 5.03(b) herein, there shall be one (1) person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Unit Owners. Such person shall be known (and hereinafter referred to) as a "Voting Member". Such Voting Member may be the Unit Owner or one of the group composed of all the owners of a Unit Ownership, or be some person designated by such Unit Owner or Unit Owners or his duly authorized attorney-in-fact to act as proxy on his or their behalf and who must be a Unit Owner. Such designation shall be made in writing to the Board, shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Unit Owner or his duly authorized attorney-in-fact, shall bear the date of its execution and shall be invalid after eleven (11) months from date of execution unless otherwise provided in the proxy. Any of such Unit Owners may be present at any meeting of the Voting Members and (those constituting a group acting as a single Voting Member) may vote or take any other action as a Voting Member either in person or by proxy. The person(s) designated by the Declarant with respect to any Unit Ownership owned by the Declarant shall also have the right to vote at any meetings of the Board for so long as the Declarant shall retain the right to so designate a Board member. If a Unit Owner is a trust, then the voting rights of such Unit Owner may be exercised by a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a corporation, limited liability company, or partnership, then the voting rights of said Unit Owner or beneficiary may be exercised by an officer, partner, member, manager or employee of such Unit Owner or beneficiary. The total number of votes of all Voting Members shall be one hundred (100), and each Unit Owner or group of Unit Owners shall be entitled to the number of votes equal to the total of the percentage of ownership in the Common Elements applicable to his or their Unit Ownership as set forth in Exhibit "C"; provided that when thirty (30%) percent or fewer of the Units, by number, possess over fifty (50%) percent in the aggregate of the votes in the Association, any percentage vote of Unit Owners specified herein shall require the specified percentage by number of Units rather than by percentage of interest in the Common Elements allocated to limits that would otherwise be applicable.

(b) In the event the ownership of a Unit is composed of more than one Person, then if only one of the multiple owners of a Unit is present at a meeting of the Association, then such owner shall be



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entitled to cast all of the votes allocated to that Unit. In the event more than one owner of a Unit is present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority of interest of the group of owners comprising the Unit Owner. Majority agreement shall be deemed to have occurred if any one of the multiple owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit.

(c) The Association may, upon adoption of the appropriate rules by the Board, conduct elections by secret ballot whereby the voting ballot is marked only with the percentage interest for the Unit and the vote itself, provided that the Board further adopts rules to verify the status of the Unit Owner issuing a proxy or casting a ballot. A candidate for election to the Board or such candidate's representative shall have the right to be present at the counting of ballots at such election.

(d) In the event of a resale of a Unit, the purchaser of a Unit from a seller other than the Developer pursuant to an installment contract for purchase shall during such times as he or she resides in or occupies the Unit be counted toward a quorum for purpose of election of members of the Board at any meeting of the Unit Owners called for purposes of electing members of the Board, shall have the right to vote for the election of members of the Board and to be elected to and serve on the Board unless the seller expressly retains in writing any or all of such rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office or be elected and serve on the Board. Satisfactory evidence of the installment contract shall be made available to the Association or its agent.

## 5.04. Meetings.

(a) Quorum. Meetings of the Unit Owners shall be held at the Property or at such other place in Cook County, Illinois, as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of 66-2/3% of the Unit Owners shall constitute a quorum unless the Unit Owners, in accordance with the Act, provide otherwise. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Unit Owners at which a quorum is present upon the affirmative vote of the Unit Owners having a majority of the total votes present at such meeting.

(b) First Unit Owners Board and Annual Meeting. The initial meeting of the Voting Members shall be held upon no less than twenty-one (21) and no more than thirty (30) days written notice given by the Declarant or Developer. Said initial meeting which shall elect the "First Unit Owners Board", shall be held no later than the first to happen of: (i) sixty (60) days after the date the Declarant has sold and delivered its deed for at least seventy-five (75%) percent of the Units; or (ii) three (3) years from the date of the recording of this Declaration, provided, however, that the words "seventy-five percent (75%) of the Units" as used in the preceding clause of this sentence shall mean 75% of the sum of the Units listed on Exhibit "C" attached hereto. Thereafter, there shall be an annual meeting of the Voting Members on the second Tuesday of December following such initial meeting, and on the second Tuesday of December of each succeeding year thereafter at 7:30 p.m., or at such other reasonable time or date as may be designated by written notice of the Board delivered to the Voting Members.

(c) Special Meetings. Special meetings of the Voting Members may be called at any time after the initial meeting provided for in Section 5.04(b) hereof for the purpose of considering matters which, by the terms of this Declaration, require the approval of all or some of the Voting Members, or for any other reasonable purpose provided, however, that the following matters shall require the approval of 75% of the Unit Owners: (i) the merger or consolidation of the Association; (ii) the sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all of the property and assets of the Association; and (iii) the purchase or sale or lease of Units or other real estate on behalf of all Unit Owners.

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Special meetings may be called by written notice authorized by a majority of the Board, the President of the Board, or by 75% of the Unit Owners, and delivered not less than ten (10) days and no more than thirty (30) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered. Matters to be submitted to the Unit Owners at special membership meetings shall be submitted by the Board.

5.05. Notices of Meetings. Except as otherwise provided herein, notices of meetings of the Voting Members required to be given herein may be delivered either personally or by mail to the persons entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notices, or to the Dwelling Unit of the Unit Owner with respect to which such voting right appertains, if no address has been given to the Board, provided that any such notice shall be delivered no less than ten (10) and no more than thirty (30) days prior to the date fixed for such meeting and shall state the time, place and purpose of such meeting.

## 5.06. Board of Directors.

(a) The initial Board of Directors designated by the Declarant or Developer pursuant to Section 5.01 hereof shall consist of three (3) directors who shall serve without compensation. Such initial Board shall serve for a period commencing on the date this Declaration is recorded and ending upon the qualification of the directors elected at the First Unit Owners Board initial meeting of Voting Members held as provided in Section 5.04(b) hereof, at which time three (3) directors shall be elected. Said initial Board may, on behalf of the Declarant or Developer, exercise the rights reserved in this Declaration. At the First Unit Owners Board initial meeting of Voting Members held as provided in Section 5.04(b) hereof, the Voting Members shall elect the Board. In all elections for members of the Board, each Voting Member shall be entitled to vote on a non-cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Members of the Board elected at the First Unit Owners Board initial meeting shall serve until the first annual meeting. At the first annual meeting, three (3) board members shall be elected. The two (2) persons receiving the highest number of votes shall be elected to a term of two (2) years and the one (1) person receiving the next highest number of votes shall be elected to a term of one (1) year. The election as between candidates receiving the same number of votes shall be determined by lot. All members of the Board shall be elected at large. Upon the expiration of the terms of office of the Board members so elected at the first annual meeting, successors shall be elected for a term of two (2) years each. The Voting Members owning at least two-thirds (2/3) of the Units may from time to time at any annual or special meeting change the term of office of Board members. Members of the Board shall receive no compensation for their services. Vacancies on the Board shall be filled by the Board by an unanimous vote of the remaining members thereof until the next annual meeting of the Voting Members or for a period terminating no later than thirty (30) days following the filing of a petition signed by Voting Members holding 66-2/3% of the votes of the Association requesting a meeting of the Voting Members to fill the vacancy for the balance of the term. A meeting of the Voting Members shall be called for purposes of filling a vacancy on the Board no later than thirty (30) days following the Voting Members filing of a petition signed holding 66-2/3% of the votes of the Association requesting such a meeting. Except as otherwise provided in this Declaration, the Property shall be managed by the Board and the Board shall act by majority vote of those present at its meetings when a quorum exists. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt; provided, however, that (i) each Unit Owner shall be entitled to notice in the same manner as provided in Section 5.05 hereof, of any meeting of the Board called for the purpose of considering the adoption of the proposed annual budget or any increase or establishment of an assessment; and (ii) the Board shall meet no less than four (4) times each year. Two-thirds (2/3) of the total number of members on the Board shall constitute a quorum. Any member of the Board may succeed himself.

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(b) In the event the Board adopts a budget requiring assessment or any separate assessment which would result in the sum of all regular and separate assessments payable in the current fiscal year exceeding one hundred fifteen percent (115%) of the sum of all regular and separate assessments payable during the preceding fiscal year, the Board, upon written petition by the Voting Members with 66-2/3% of the votes of the Association delivered to the Board within fourteen (14) days of the Board action, shall call a meeting of the Voting Members within thirty (30) days of the date of filing of the petition to consider the budget or separate assessment. Unless a majority of the total votes of Voting Members present are cast at the meeting to reject the budget or separate assessment, the budget shall be deemed to be ratified. Any common expense not set forth in the budget or any increase in assessments over the amount adopted in the budget shall be separately assessed against all Unit Owners. Separate assessments for expenditures relating to emergencies or mandated by law may be adopted by the Board without being subject to Unit Owner approval. As used herein, "emergency" means an immediate danger to the structural integrity of the Common Elements or to the life, health, safety or property of the Unit Owners. Assessments for additions and alterations to the Common Elements or to Association-owned property not included in the adopted annual budget, shall be separately assessed and are subject to approval of two-thirds (2/3) of the total votes of all Unit Owners. If the Board adopts separate assessments payable over more than one fiscal year, and the multi-year assessment is not for an emergency or mandated by law, the entire amount of the multi-year assessment shall be deemed considered and authorized in the first fiscal year in which the assessment is approved.

(c) The Board shall elect from amongst its members a President who shall preside over both its meeting and those of the Voting Members, and who shall be the chief executive officer of the Board and the Association and who shall be designated to mail and receive all notices and execute all amendments hereto as provided herein and in the Act, a Secretary who shall keep the minutes of all meetings of the Board and of the Voting Members and who shall, in general, perform all the duties incident to the Office of the Secretary, and a Treasurer to keep the financial records and books of account, such additional officers as the Board shall see fit to elect from amongst the members of the Board. The term of office for each officer shall be until the next succeeding annual meeting of the Board, and until his successor shall be duly elected or appointed and qualified pursuant hereto. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of the Board. Any director elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by a vote of two-thirds (2/3) of the total membership of the Board at a special meeting hereof. Any officer may succeed himself.

(d) Written notice stating the place, date and hour of any meeting of the Board shall be delivered to each member of the Board not less than five (5) days prior to the date of such meeting. The purpose for which the meeting is called shall be stated in the notice.

(e) All meetings of the Board, except as otherwise provided by the Act, shall be open to attendance by any Unit Owner, and notice thereof, except as otherwise provided herein, shall be mailed or delivered to each Unit Owner not less than forty-eight (48) hours prior thereto unless a written waiver of such notice is signed by such Unit Owner before the meeting is convened. Any vote on matters which may, under the Act, be discussed in a meeting not open to attendance by any Unit Owners, shall be taken at a meeting or portion thereof open to any Unit Owners. Any Unit Owner may record the proceedings at meetings or portions thereof required to be open under the Act by tape, film, or other means provided, however, that the Board may prescribe reasonable rules and regulations to be given the right to make such recordings. A copy of such notice of meeting required to be given hereunder shall be posted in a conspicuous place in the Building at least forty-eight (48) hours prior to the time fixed for such meeting.

(f) Within sixty (60) days following the election of the First Unit Owners Board, the



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Developer or the Declarant shall deliver to the Board the following:

(i) All original documents as recorded or filed pertaining to the Property, its administration, and the Association, such as this Declaration, Articles of Incorporation for the Association, other condominium instruments, annual reports, a minute book containing the minutes of any meetings held by the Association and any rules and regulations governing the Property, contracts, leases or other agreements entered into by the Association. If any original documents are unavailable, a copy may be provided if certified by affidavit of the developer, or an officer or agent of the Developer, as being a complete copy of the actual document recorded as filed.

(ii) A detailed accounting by the Developer, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance and operation of the Property and copies of all insurance policies and a list of any loans or advances to the association, which are outstanding.

(iii) Any association funds on hand which shall have been at all times segregated from any other funds of the Developer.

(iv) A schedule of all real or personal property, equipment and fixtures owned by the Association, including documents such as invoices or bills of sale, if available, evidencing transfer of title to such property, warranties, if any, for all real and personal property and equipment, deeds, title insurance policies, and all tax bills.

(v) A list of all litigation, administrative action and arbitrations involving the Association, any notices of governmental bodies involving actions taken or which may be taken by the Association, engineering and architectural drawings and specifications as approved by any governmental authority, all other documents filed with any other government authority, all governmental certificates, correspondence involving enforcement of any Association requirements, copies of any documents relating to disputes involving Unit Owners and originals of all documents relating to everything listed in this subparagraph.

(g) Except for directors designated by Declarant or Developer pursuant to Section 5.01 hereof, any Board member may be removed from office, at any time after the election of directors at the First Unit Owners Board meeting of Voting Members pursuant to Section 5.06(a) hereof, by affirmative vote of the Voting Members owning at least two-thirds (2/3) of the Units, at any special meeting called for the purpose. A successor to fill the unexpired term of a Board member removed may be elected by the Voting Members at the same meeting or any subsequent meeting called for that purpose.

(h) The Association (or the Declarant or Developer, in exercise of the powers reserved in this Declaration), shall furnish any Unit Owner, within three (3) working days of delivery to it of a request thereof, the names and addresses (if known), and the number of votes of each Unit Owner entitled in vote at the initial meeting of the Voting Members to elect member of the Board and at each subsequent meeting of the Voting Members to elect members of the Board.

(i) The Board shall require (1) that all officers, employees or other persons who either control or disburse funds of the Association shall furnish fiduciary insurance coverage which covers the maximum amount of funds that will be in the custody of the Association plus the Association Reserve, the premium cost of which shall be paid by the Association and (2) that all Management Companies which are responsible for funds held or administered by the Association, if any, shall maintain and furnish a fidelity bond to the Association for the maximum amount of coverage which is available to protect funds in the custody of the Management Company at one time, the premium cost of which shall be paid by



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the Association. "Management Company" shall be defined as a person, partnership, limited liability company, corporation, or other legal entity entitled to transact business on behalf of others, acting on behalf of or as an agent for a Unit Owner, Unit Owners or Association of Unit Owners for the purpose of carrying out the duties, responsibilities, and other obligations necessary for the day-to-day operation and management of any property subject to the Act. For purposes of this paragraph, the term "Fiduciary Insurance Coverage" shall be defined as both a fidelity bond and directors' and officers' liability coverage, the fidelity bond in the full amount of the Association funds and Association Reserves that will be in the custody of the Association, and the directors' and officers' liability coverage at a level as shall be determined to be reasonable by the Board, if not otherwise established by the Declaration or Bylaws.

5.07. General Powers of the Board. The Board shall have the following general powers:

(a) Subject to the rights reserved by the Declarant or Developer pursuant to this Declaration, the Board may engage the services of an agent to manage the Property for which the Board is responsible pursuant to this Declaration, to the extent deemed advisable by the Board; provided, however, that any agreement for professional management, except as hereinafter provided, shall provide for termination by the Board without cause upon not more than ninety (90) days written notice without payment of a termination fee, provide for termination with cause by the Board of thirty (30) days written notice without payment for termination fee and shall have a term not to exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods. The initial agreement for professional management may provide for a monthly rate and subject to such terms as are consistent with competitive rates and terms prevailing in the area in which the Property is located expiring two (2) years from the date of the initial meeting for the election of the First Unit Owners Board, subject to termination for cause by the Association upon thirty (30) days written notice without payment of a termination fee. The management agreement shall require the management agent to furnish a fidelity bond in such amounts and with such provisions as contained in Section 5.08(a)(v).

(b) The Board or its agents, upon reasonable notice, may enter any Unit when necessary in connection with any maintenance, repair, replacement or construction of the Common Elements or to make emergency repairs as may be necessary to prevent damage to the Common Elements or to any other Unit or Units.

(c) Except as otherwise provided in the Budget, the Board's powers hereinafter enumerated shall be limited in that the Board shall have no authority to acquire and pay for from the maintenance fund any capital additions to, or capital improvements to the Common Elements (other than for purposes of replacing or restoring portions of the Common Elements, subject to all the provisions of this Declaration, requiring an expenditure in excess of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) without in each case the prior written approval of Unit Owners owning at least two-thirds (2/3) of the Units. For the purpose of this subsection, capital additions and capital improvements shall include structural and non-structural additions and improvements.

(d) All arrangements, contracts, deeds, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the Treasurer and counter-signed by the President of the Board.

(e) The Board shall have the power and duty to provide for the designation, hiring, and removal of employees and other personnel, including lawyers and accountants, to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management, and operation of the Property, and to delegate any such powers to the manager or managing

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agent (and any such employees or other personnel as may be employees of the managing agent), provided that the Board may not enter into a contract with a current Board member or with a corporation, company or partnership in which a Board member has a twenty-five percent (25%) or more interest, unless notice of intent to enter into the contract is given to the Unit Owners within twenty (20) days after a decision is made to enter into the contract and the Unit Owners are afforded an opportunity by filing a petition signed by 66-2/3% of the Unit Owners, for an election to approve or disapprove the contract, such petition shall be filed within twenty (20) days after such notice and such election shall be held within thirty (30) days after filing the petition.

(f) The Board shall have the power to exercise all other powers and duties of the Board of Directors of Unit Owners as a group referred to in the Declaration or the Act. More specifically, the Board shall exercise for the Association all powers, duties and authority vested therein by law or the condominium instruments except for such powers, duties and authority reserved thereby to the members of the Association. The powers and duties of the Board shall include, but shall not be limited to, the following matters:

(i) Operation, care, upkeep, maintenance, replacement and improvement of the Common Elements, including the Parking Area, in a neat and orderly manner;

(ii) Preparation, adoption and distribution of the annual budget for the Property;

(iii) Levying of assessments;

(iv) Collection of assessments from Unit Owners;

(v) Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the Common Elements;

(vi) Obtaining adequate and appropriate kinds of insurance;

(vii) Owning, conveying, encumbering, leasing and otherwise dealing with Units conveyed to or purchased by it;

(viii) Adoption and amendment of rules and regulations covering the details of the operation and use of the Property, after a meeting of the Unit Owners called for the specific purpose of discussing the proposed rules and regulations, notice of which contains the full text of the proposed rules and regulations, however, no rules or regulations may impair any rights guaranteed by the First Amendment to the Constitution of the United States or Section 4 of Article I of the Illinois Constitution, nor may any rules or regulations conflict with the provisions of the Act or the condominium instruments;

(ix) Keeping of detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property;

(x) To have access to each Unit from time to time as may be necessary for the maintenance, repair or replacement of any Common Elements (to the extent the Association is responsible for such maintenance, repair or replacement) therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Elements or to other Unit or Units;

(xi) Pay real property taxes, special assessments, and any other special taxes or charges of the State of Illinois or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon the real property of the

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Condominium;

(xii) Impose charges for late payments of a Unit Owner's proportionate share of the Common Expenses, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, levy reasonable fines for violation of this Declaration and rules and regulations of the Association. If any Unit Owner shall fail or refuse to make any payments of the Common Expenses when due, the amount thereof, together with any interest, late charges, reasonable attorneys' fees incurred prior to the initiation of any court action, and costs of collections or the amount of any unpaid fine shall constitute a lien on the interest of such Unit Owner prior to all other liens and encumbrances recorded or unrecorded, except only (a) taxes, special assessments and special taxes theretofore or thereafter levied by any political subdivision or municipal corporation of Illinois and other state and federal taxes which by law are a lien on the interest of such Unit Owner prior to preexisting recorded encumbrance thereon and (b) encumbrances on the interest of such Unit Owners recorded prior to the date of such failure or refusal which by law would be a lien thereon prior to subsequently recorded encumbrances;

(xiii) Assign the Association's right to future income, including the right to receive Common Expenses;

(xiv) Record the dedication of a portion of the Common Elements to a public body for use as or in connection with a street or utility where authorized by the Unit Owners under the provisions of this Declaration; and

(xv) Record the granting of an easement for the laying of cable television where applicable pursuant to the provisions of Section 4.03(b) hereof.

(g) Subject to the provisions of this Declaration, the Board for the benefit of all the Unit Owners shall acquire and shall pay from the maintenance fund hereinafter provided for, the following:

(i) Operating expenses of the Common Elements, including water, electricity, gas and other necessary utility service for the Common Elements and (if not separately metered or charged) for the Units.

(ii) Services of any person or firm to act on behalf of the Unit Owners in connection with real estate truces and special assessments on the Unit Ownerships, and in connection with any other matters where the respective interests of the Unit Owners are deemed by the Board to be similar and non-adverse to each other. The cost of such services shall be Common Expenses.

(iii) Painting, cleaning, outside window washing, tuck-pointing, maintenance, decorating, repair, and replacement of the Common Elements, including the Parking Area, (but not including the interior surfaces of the Dwelling Units and of the perimeter doors appurtenant thereto, and repair of windows which the Unit Owners shall paint, clean, decorate, maintain, and repair), and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper.

(iv) Any other materials, supplies, utilities, furniture, equipment, labor, services, maintenance, repairs or structural alterations which the Board is required to secure or pay for, pursuant to the terms of this Declaration and By-Laws or which in its opinion shall be necessary or proper for the maintenance and operation of the Property as a first-class condominium development or for the enforcement of the restrictions contained herein.

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(v) Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Board constitute a lien against the Property or against the Common Elements, rather than merely against the interests therein of particular Unit Owners. Where one or more Unit Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specifically assessed to said Unit Owners.

(vi) Maintenance and repair of any Unit if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Elements or any other portion of the Building, or if a Unit Owner of any Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board to said Unit Owner, provided that the Board shall level a special assessment against such Unit Owner for the cost of said maintenance repair.

(h) Prior to the election by voting Members of the First Unit Owners Board, the Declarant or Developer shall, subject to the terms of this Declaration, have the authority to lease or to grant licenses, concessions and contracts with respect to any part of the Common Element, all upon such terms as the Declarant or Developer deems appropriate. Upon election of the first Board, and thereafter, the Board by a vote of at least two-thirds (2/3) of the persons on the Board shall have the same authority as aforesaid.

(i) The Board shall have the powers to bid for any purchase of any Unit Ownership at a sale pursuant to a mortgage foreclosure, or a foreclosure of the lien for Common Expenses under the Act, or at a sale pursuant to an order of direction of a court, or other involuntary sale, upon the consent or approval of Unit Owners having not less than two-thirds (2/3) of the total votes.

(j) The Association shall have no authority to forebear the payment of assessments by any Unit Owner.

## 5.08. Insurance.

(a) The Board shall have the authority to and shall obtain insurance for the Property as follows:

(i) Physical damage insurance on the Property which includes the Common Elements, the Units and the Limited Common Elements, except as otherwise determined by the Board, subject to the following conditions:

- A. Such insurance shall be "bare wall" insurance with respect to the Units and may include, at the discretion of the Board, floors, ceilings and interior walls of the Units;
- B. The Property shall be insured for an amount not less than one hundred percent (100%) of its full insurable replacement cost on a blanket basis;
- C. Replacement cost values are to be reviewed annually, and the insurance policy or policies shall be endorsed with an agreed amount clause. The cost of any and all appraisals for insurance purposes shall be Common Expenses;
- D. Perils to be covered by such policies shall be no less than "all risk" or "special form" on real property and "broad form" named perils on personal property, and such other perils as may be deemed appropriate by the Board; and



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- E. The insurance need not cover additions, alterations, improvements and betterments to the Units installed by Unit Owners, but if they are covered, any increased cost may be assessed by the Board against the Units affected.

(ii) Comprehensive General Liability insurance covering personal injury and property damage insuring against hazards of premises/operations, products and completed operations, contractual liability, personal injury liability (with exclusions (a) and (c) deleted), independent contractors and other extensions as deemed necessary by the Board. Such insurance shall provide limits of liability as deemed desirable by the Board, but in no event for less than One Million Dollars (\$1,000,000.00) with respect to each occurrence. Such policy shall be endorsed to cover cross-liability claims of one insured against the other.

(iii) Umbrella Liability insurance in excess of the required Comprehensive General Liability and Employer Liability policies in an amount deemed desirable by the Board, but in no event less than One Million Dollars (\$1,000,000.00) with respect to each occurrence. Such policy shall be no less than following form coverage of the primary liability policies.

(iv) Worker's Compensation and Employer Liability (minimum amount \$100,000.00) as necessary to comply with applicable laws, including Voluntary Compensation to cover employees not covered under the Illinois statute for benefits.

(v) Fidelity bond insuring the Association, the Board and the Unit Owners against loss of funds as a result of the fraudulent or dishonest acts of any person who controls or disburses funds of the Association, the Board and the Unit Owners for the maximum amount of coverage available to protect funds in the custody or control of the Association, plus the Reserves. The premium for such fidelity bond shall be a Common Expense. Such bond shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. Such bond shall provide that it may not be canceled for nonpayment of any premiums or otherwise substantially modified without sixty (60) days prior written notice to all holders of first mortgages of record. All management companies that are responsible for the funds held or administered by the Association must be covered by a fidelity bond for the maximum amount of coverage available to protect those funds. The Association has standing to make a loss claim against the bond of the managing agent as a party covered under the bond.

(vi) Directors and Officers Liability insurance in such amounts as the Board shall determine to be reasonable. Such coverage shall extend to all contracts or other actions taken by the Board in their official capacity as directors and officers, but this coverage shall exclude actions for which the directors are not entitled to indemnification under the Not-For-Profit Act or otherwise contained in this Declaration.

(vii) Such other insurance, which may include, without limitation, any or all of the following, in such amounts as the Board shall deem desirable: Errors and Omissions coverage for the directors of the Board; and Medical Payments coverage for members of the public (not Unit Owners) injured on the Property, without regard to liability of the Board or the Association;

The premiums for the above described insurance and bond, except as otherwise provided in this Section 5.08, shall be Common Expenses.

(b) All insurance provided in this Section 5.08 shall be effected under valid and enforceable policies issued by insurance companies authorized and licensed to transact business in the State

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of Illinois and holding current Policyholder's Alphabetical Financial Size Category Rating of not less than A+ according to Best's Insurance Reports or a substantially equivalent rating from a nationally-recognized insurance rating service. All such policies shall provide a minimum of thirty (30) days advance notice of modification or cancellation in writing to the insured thereunder unless such cancellation is for non-payment or premium in which case ten (10) days advance written notice shall be sufficient.

(c) All policies of insurance of the character described in clauses (i) and (ii) of Paragraph (a) of this Section 5.08 (i) shall name as insured: The Declarant, so long as it has an insurable interest; the Board, as trustees for the Unit Owners, in the percentages established in Exhibit "C" to this Declaration; and shall also name as an assured the Insurance Trustee described in subparagraph 5.08(f)(ii), as the respective interests of all of such assureds may appear; (ii) shall be without contribution as respects other such policies of insurance earned individually by the Unit Owners whether such other insurance covers their respective Units and/or the additions and improvements made by such Unit Owners to their respective Dwelling Unit; (iii) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefore, such option shall not be exercisable in the event the Unit Owners elect to sell the Property or remove the Property from the provisions of the Act; and (iv) shall contain an endorsement to the effect that such policy shall not be terminated for nonpayment of premiums without at least ten (10) days prior written notice to the mortgagee of each Unit (only in the event the insurer has been notified of the mortgagees). Policies of insurance of the character described in clause (i) of Paragraph (a) of this Section 5.08 may contain an endorsement extending coverage so as to include the payment of Common Expenses with respect to damaged Units during the period of reconstruction thereof. Notwithstanding the issuance of standard mortgage clause endorsements under the policies of insurance of the character described in clauses (i) and (ii) of Paragraph (a) of this Section 5.08, any losses under such policies shall be payable, and all insurance proceeds recovered thereunder shall be applied and disbursed, in accordance with the provisions of this Declaration and the Act.

(d) All policies of insurance of the character described in clauses (ii), (iii), (iv) and (v) of Paragraph (a) of this Section 5.08 shall name as assureds the Association, the Board, its managing agent, and other agents and employees of such Association, Board and managing agent and the Declarant and Developer in his or its capacity as a Unit Owner and Board member and shall also provide coverage for each Unit Owner (but as to the insurance described in Section 5.08(a)(iii) hereof, only with respect to those portions of the Property not reserved for their exclusive use). In addition, all policies of insurance of the character described in clauses (i), (ii) and (iii) of Paragraph (a) of this Section 5.08 shall contain an endorsement or clause whereby the insurer waives any right of subrogation against the Association, its officers, members of the Board, the Declarant, Developer, the managing agent, their respective employees and agents, and the Unit Owners and Occupants.

(e) The Association, for the benefit of the Unit Owners and the mortgagee of each Unit, shall pay the premiums and obtain a binder on the policies of insurance described in Paragraph (a) of this Section 5.08 at least thirty (30) days prior to the expiration date of the respective policies, and upon written request thereof, shall notify the mortgagee of each Unit of such payment within ten (10) days after the date on which payment is made.

(f) Loss, if any, under any policies of insurance of the character described in clauses (i) and (ii) in Paragraph (a) of this Section 5.08 shall be adjusted with the Board, and the insurance proceeds on account of any such loss shall be paid and applied as follows:

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(i) The Board, as trustee of each of the Unit Owners in their respective percentages of ownership in the Common Elements as established in this Declaration, in the case of any one loss, of One Hundred Thousand Dollars (\$100,000.00) or less in the aggregate, which insurance proceeds, less the actual cost, fees and expenses, if any, incurred in connection with the adjustment of the loss, shall be applied to the payment of the cost of restoring the Property to substantially the same condition as it existed immediately prior to such damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before, free from vendor's mechanic's, materialman's, and other similar liens; or

(ii) In the case of any one loss exceeding One Hundred Thousand Dollars (\$100,000.00) aggregate, then the insurance proceeds shall be paid to Heartland Bank & Trust, which bank corporation is hereby designated by the Developer to act as trustee for the Board (the "Insurance Trustee") pursuant to the Act for the purpose of collecting and disbursing the insurance proceeds described in this subparagraph (ii). If such entity (or its successor appointed pursuant hereto) shall fail or cease for any reason to act as the Insurance Trustee, then the Board shall, pursuant to the Act, appoint as successor Insurance Trustee a corporation qualified to accept and execute trusts in the State of Illinois and having a capital of not less than Five Million Dollars (\$5,000,000.00). Such proceeds, less the actual cost, fees, and expenses, if any, incurred in connection with the adjustment of the loss and the fees of the Insurance Trustee, shall be applied by the Insurance Trustee to the payment of the cost of restoring the Property to substantially the same condition as it existed immediately prior to such damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before. Such proceeds shall be paid by the Insurance Trustee to or for the account of the Association, from time to time as work progresses, in such manner as shall be required to facilitate the restoration of the Property in accordance with provisions of the Act. The Association and the Insurance Trustee may, prior or subsequent to any such loss, enter into an insurance trust agreement further implementing the provisions of the Act and this Declaration with respect to the collection and disbursement of proceeds of insurance by the Insurance Trustee.

(g) Each Unit Owner shall be responsible for and shall obtain (i) physical damage insurance on the personal property in his Unit and elsewhere on the Property, and any additions, alterations and improvements to his Dwelling Unit (whether installed by such Unit Owner or any prior Unit Owner or whether originally in his Unit); (ii) his personal liability to the extent not covered by the policies of liability insurance obtained by the Board for the benefit of all of the Unit Owners as above provided; and (iii) his additional living expense. All policies of casualty insurance carried by each Unit Owner shall be without contribution with respect to the policies of casualty insurance obtained by the Board for the benefit of all of the Unit Owners as above provided. For the purpose of Section 5.08(g) and 5.08(h) hereof, "additions, alterations and improvements" shall mean any property (excluding personal property readily removable without damage to the Dwelling Unit) attached to the Dwelling Unit, including without limitation carpeting, flooring, wall covering, paint and paneling.

(h) The Board shall not be responsible for obtaining physical damage insurance on any additions, alterations and improvements to a Dwelling Unit or any personal property of a Unit Owner or any other insurance for which a Unit Owner is responsible pursuant to Section 5.08(g) hereof.

(i) Each Unit Owner hereby waives and releases any and all claims which he may have against any other Unit Owner, the Association, its officers, members of the Board, Declarant, Developer, the manager and managing agent of the Property, if any, and their respective employees and agents, for any damage to the Common Elements, the Units, or to any personal property located in the Unit or Common Elements caused by fire or other casualty to the extent that such

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damage is covered by fire or other form of casualty insurance or would be covered by insurance for which such Unit Owner is responsible pursuant to Section 5.08(g) hereof.

(j) The Board shall have the right to select substantial deductibles to the insurance coverages required or permitted under this Section 5.08 if the economic savings justifies the additional risk and if permitted by law. The deductibles shall be on a per occurrence basis irrespective of the number of insureds suffering injury or damage. Expenses included within the deductible amount arising from insurable loss or damage shall be treated as Common Expenses. However, the Board may, in the case of a claim for damage to a Unit or the Common Elements (i) pay the deductible amount as a Common Expense, (ii) after notice and an opportunity for a hearing, assess the deductible amount against the Unit Owner(s) who caused the damage or from whose Unit(s) the damage or cause of loss originated, or (iii) require the Unit Owner(s) of the Unit(s) affected to pay the deductible amount.

5.09. Liability of the Board of Directors. Neither the members of the Board nor the officers of the Association shall be liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever by a court to constitute gross negligence or actual fraud. The Unit Owners shall indemnify and hold harmless each of the members of the Board and each of the officers of the Association against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board and officers of the Association on behalf of the Unit Owners or arising out of their status as Board members or officers unless any such contract or act shall have been made fraudulently or with gross negligence or contrary to the provisions of this Declaration. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid or received in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, in which any member of the Board or officers of the Association may be involved by virtue of such persons being or having been such member or officer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or actual fraud in the performance of his duties as such member or officer, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or actual fraud in the performance of his duties as such member or officer. It is also intended that the liability of any Unit Owner arising out of any contract made by or other acts of the Board or officers of the Association, or out of the aforesaid indemnity in favor of the members of the Board and officers of the Association, shall be limited to such proportion of the total liability hereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all the Unit Owners in the Common Elements. Every agreement made by the Board on behalf of the Unit Owners shall be deemed to provide that the members of the Board are acting only as agents for the Unit Owners, and shall have no personal liability thereunder (except as Unit Owners) and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements.

5.10. Resale of Units. In the event of a resale (i.e. any sale made after the initial sale) of any Unit by a Unit Owner other than the Developer or the Declarant, and within fourteen (14) days after the written request by such Unit Owner, the Board shall deliver a copy of each of the documents and make the disclosures described in and required by Section 22.1 of the Act. The Board shall be allowed to charge a reasonable fee, not to exceed the maximum amount prescribed by the Act, for providing such information.



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## ARTICLE VI COMMON EXPENSES MAINTENANCE FUND

6.01. Preparation of Estimated Budget. On or before November 1 of each year following the initial meeting of the Voting Members to elect the First Unit Owners Board, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for adequate reserves, including, without limitations, amounts to maintain a Capital Reserve, as hereinafter defined in Section 6.02 hereof, and within fifteen (15) days thereafter, notify each Unit Owner in writing as to the amount of such estimate, with reasonable itemization thereof, including those portions intended for capital expenditures or repairs or payment of real estate taxes and containing each Unit Owner's respective assessment provided, however, that such annual budget shall be furnished to each Unit Owner at least thirty (30) days prior to its adoption by the Board. Said "estimated cash requirement" shall be assessed to the Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements as set forth in Exhibit "C" attached hereto. On or before January 1 of the ensuing year, and the first day of each and every month of said year, each Unit Owner jointly and severally, shall be personally liable for and obligated to pay to the Board or as it may direct, one-twelfth (1/12) of the assessments made pursuant to this paragraph. On or before April 1 of each calendar year following the initial meeting of the Voting Members to elect the First Unit Owners Board, the Board shall supply to all Unit Owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with an indication of which portions were for reserves, capital expenditures or repairs or payment of real estate taxes and with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net amount over or short of the actual expenditures plus reserves. Such accounting shall upon the written request of any Unit Owner be prepared by a certified public accountant, in which event such accounting shall be due as soon as reasonably possible after such request. Any net shortage or excess shall be applied as an adjustment to the installments due under the current year's estimate in provisions of Section 6.02 hereof. For purposes of the Declaration and the management and operation of the Property, the calendar year shall be deemed to be the fiscal year of the Association.

6.02. Capital Reserve; Supplemental Budget. The Association shall segregate and maintain a special reserve account to be used solely for making capital expenditures in connection with the Common Elements (the "Capital Reserve"). The Board shall determine the appropriate level of the Capital Reserve by taking the following into consideration: (i) the repair and replacement cost, and the estimated useful life-of the property which the association is obligated to maintain; including but not limited to structural and mechanical components, surfaces of the Building and common elements, and energy systems and equipment; (ii) the current and anticipated return on investment of Association funds; (iii) any independent professional reserve study which the Association may obtain; (iv) the financial impact on Unit Owners, and the market value of the Units, of any assessment increase needed to fund reserves; and (v) the ability of the Association to obtain financing or refinancing. Each budget shall disclose that percentage of the annual assessment which shall be added to the Capital Reserve and each Unit Owner shall be deemed to make a capital contribution to the Association equal to such percentage multiplied by each installment of the annual assessment paid by such Unit Owner. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against such portions of any contingency reserve or Capital Reserve, as applicable, which remains unallocated. If the

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estimated Common Expenses contained in the budget prove inadequate for any reason or in the event a nonrecurring Common Expense is anticipated for any year, then the Board may prepare and approve a supplemental budget covering the estimated deficiency or nonrecurring expense for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a special or separate assessment shall be made to each Unit Owner for his proportionate share of such supplemental budget, subject to the provisions of Section 5.06(b) hereof. All Unit Owners shall be personally liable for and obligated to pay their respective adjusted monthly amount.

6.03. Initial Budget or Interim Budget. The initial Board appointed by the Developer shall determine and adopt, prior to the conveyance of the first Unit hereunder, the "estimated cash requirement" for the initial period commencing with the first day of the month in which the sale of the first Unit is closed and ending twelve (12) months thereafter of the calendar year in which sale occurs, and shall continue to determine the "estimated cash requirement" for each succeeding calendar year until such time as the First Unit Owners Board is elected hereunder and takes office and which may include such sums as collected from time to time at the closing of the sale of each Unit. The Developer appointed Board may determine, within such twelve month period that the estimated cash requirement should be adjusted based on any change in circumstances regarding the Property or the Association. In such event, Assessments will be recalculated based on the revised budget and Unit Owners will be charged the revised Assessments thereafter. Assessments shall be levied against the Unit Owners during said periods as provided in Section 6.01 of this Article.

6.04. Failure to Prepare Annual Budget. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on the Unit Owners shall not constitute a waiver or release in any manner of any such Unit 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 Unit Owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the monthly maintenance program which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

6.05. Records of the Association. The managing agent or Board shall maintain the following records of the Association available for examination and copying at convenient hours of weekdays by the Unit Owners or their mortgagees and their duly authorized agent or attorneys:

(a) Copies of this Declaration and any amendments, Articles of Incorporation of the Association, annual reports and any rules and regulations adopted by the Association or its Board shall be available. Prior to the organization of the Association, the Developer shall maintain and make available the records set forth in this subsection for examination and copying.

(b) Detailed accurate records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expense incurred, and copies of all contracts, leases, or other agreements entered into by the Association shall be maintained.

(c) The minutes of all meetings of the Association and the Board shall be maintained. The Association shall maintain these minutes for a period of not less than seven (7) years.

(d) Ballots and proxies relating thereto for all elections to the Board and for any other matters voted on by the Unit Owners shall be maintained for a period not less than one (1) year.

(e) Such other Records of the Association as are available for inspection by members of a

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not-for-profit corporation pursuant to Section 107.75 of the General Not-for-Profit Corporation Act of 1986, as amended, shall be maintained.

(f) With respect to Units owned by a land trust if a trustee designates, in writing, a person to cast votes on behalf of the Unit Owner, that designation shall remain in effect until a subsequent document is filed with the Association.

(g) A reasonable fee may be charged by the Association or its Board for the actual cost of copying.

(h) Upon ten (10) days' notice to the Board and payment of a reasonable fee, any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

When a request for records is made in writing to the Board or its agent, failure to provide the requested record or to respond within thirty (30) days shall be deemed a denial by the Board.

6.06. Status of Collected Funds. all funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepared assessments or user charges) shall be deemed to be held for the benefit, use and account of all the Unit Owners in the percentages forth in Exhibit "C".

6.07. Start-up Costs. At the time the initial sale of each Unit is closed, the purchaser of the Unit shall pay to the Association an amount equal to two (2) times the first full monthly assessment for each Unit. This sum shall be used and applied for start-up costs and as working capital fund in connection with all initial operating expenses for the Common Elements and held for future working capital needs. This payment shall not be refundable or be applied as a credit against the Unit Owner's monthly assessments. The Board or the Developer shall have the right to transfer such funds from time to time as may be necessary to fund the Capital Reserve.

6.08. User Charges. The Board, or the Declarant or Developer, acting pursuant to Section 15.01 hereof, may establish and each Unit Owner shall pay, user charges to defray the expense of providing services, facilities, or benefits which may not be used equally or proportionately by all of the Unit Owners or which, in the judgment of the Board, should not be charged to every Unit Owner. Such expense may include such services and facilities provided to Unit Owners which the Board determines should not be allocated among all of the Unit Owners in the same manner as the Common Expenses. Such user charges may be billed separately to each Unit Owner benefited thereby, or may be added to such Unit Owner's share of the Common Expenses, as otherwise determined, and collected as a part thereof. Nothing herein shall require the establishment of user charges pursuant to this Section 6.08, and the Board or the Declarant or Developer may elect to treat all or any portion thereof as Common Expenses.

6.09. Non-use and Abandonment. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his or their Units.

## ARTICLE VII

### SALE OF ENTIRE PROPERTY AND RESTRICTIONS ON ALIENATION

7.01. Sale of Entire Property. At a meeting duly called for such purpose and attended by all Unit Owners, the Unit Owners by affirmative vote of 75% of the Unit Owners, may elect to sell the

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Property as a whole. Within ten (10) days after the date of the meeting at which meeting such sale was approved, the Board shall give written notice of such action to the holder of any duly recorded mortgage or trust deed against any Unit entitled to notice under Section 15.02 of this Declaration. Such action shall be binding upon all Unit Owners and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts in manner and form may be necessary to effect such sale.

7.02. Default on Payment of Unit Mortgage Payments. In the event any Unit Owner shall default in the payment of any monies required to be paid under the provisions of any mortgage or trust deed against his Unit, the Association shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefore against such Unit, which lien may be perfected and foreclosed in the manner provided in Section 9 of the Act with respect to liens for failure to pay a share of the common expenses.

7.03. Limits on Lease Terms. No Unit shall be leased by a Unit Owner for hotel or transient purposes or terms less than six (6) months and no portion of a Unit which is less than the entire Unit shall be leased. Each lease of any one or more Units shall be in writing. The provisions of the Act, the Declaration, By-Laws, rules and regulations of the Association that relate to the use of the Unit or the common elements shall be applicable to any person leasing a Unit and shall be deemed to be incorporated in each lease. The failure of a lessee to comply therewith shall constitute a default under the lease which shall be enforceable by the Board or the Association. In addition to any other remedies, by filing an action jointly against a lessee and a Unit Owner, the Association may seek to enjoin a lessee from occupying a Unit or seek to evict a lessee under the provisions of Article IX of the Code of Civil Procedure for failure of the lessor-owner to comply with the leasing requirements prescribed by the Act or the Declaration, By-laws, rules or regulations. The Board may also proceed directly against a tenant, at law or in equity, or under the provisions of Article IX of the Code of Civil Procedure for any other breach by tenant of any covenants, rules, regulations or Bylaws. The Unit Owner making such lease shall not be relieved thereby from any of said obligations.

## 7.04. Miscellaneous.

(a) A transfer or lease of a Unit or interest therein, by or to the Board, the Declarant or Developer shall not be subject to the provision of this Article VII. This Section cannot be amended or deleted without the prior written consent of Declarant and Developer, so long as Declarant owns any Units.

(b) Upon the written request of any prospective transferor, purchaser, tenant or mortgagee of a Unit, the Board, by its Secretary, shall issue a written and acknowledged certificate evidencing:

(i) that the provisions of this Article VII have been complied with or duly waived by the Board;

(ii) that any lease is, by the terms hereof, not subject to the provisions of this Article VII, if such is the fact; and such a certificate shall be conclusive evidence of the facts contained therein.

(c) The Board may adopt rules and regulations, from time to time, not inconsistent with the provisions of this Declaration, for the purpose of implementing and effectuating said provisions.

7.05. Transfer by Operation of Law. The terms of this Article VII shall not be applicable to the leasing of a Unit by the holder of a mortgage or trust deed who has acquired title to such Unit by



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deed in lieu of foreclosure or foreclosure of a mortgage or trust deed on the Property, or any Unit, or by any other remedy set forth in the mortgage or trust deed.

## ARTICLE VIII USE AND OCCUPANCY RESTRICTIONS

8.01. Use and Occupancy of Units and Common Elements. The Units and Common Elements shall be occupied and used subject to the following restrictions:

(a) No Unit shall be used for other than housing and the related common purposes for which the Property was designated. Each Unit shall be used as a residence for a single family or such other uses permitted by this Declaration. That part of the Common Elements separating any two or more adjoining Units used together may be altered to afford ingress and egress to and from such adjoining units in accordance with the rules and regulations of the Association and upon such conditions as shall reasonably be determined by the Association, provided that a Unit Owner intending to so alter the Common Elements as aforesaid shall notify the Association at least twenty-one (21) days before commencement of any such alteration.

(b) No industry, business, trade, occupation, or profession of any kind, commercial, religious, educational, or otherwise, designed for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted on any part of the Property. However, above restrictions shall not be construed in such a manner as to prohibit a Unit Owner from:

- (i) maintaining personal professional library therein;
- (ii) keeping personal business or professional records or accounts therein;
- (iii) handling personal business or professional telephone calls or correspondence therefrom;
- (iv) maintaining computers and other office equipment within the Dwelling Unit; or
- (v) utilizing secretarial help and having occasional business visitors. Such uses are expressly declared customarily incident to the principal residential use and not in violation of this paragraph. Notwithstanding the foregoing, no Unit Owner shall suffer or permit the regular or consistent entry of customers or clients.

(c) No "For Sale" or "For Rent" signs, advertising, or other displays shall be maintained or permitted on any part of the Property except at such location and in such form as shall be determined by the Association. The right is reserved by the Owner and the Developer or their agent or agents to place "For Sale" or "For Rent" signs on any unsold or unoccupied Units and on any part of the Common Elements, and the right is hereby given to any mortgagee who may become the owner of any Unit to place such signs on any Unit owned by such mortgagee. Until all the Units are sold and conveyed, the Owner and the Developer shall be entitled to access, ingress, and egress to the Property as they shall deem necessary in connection with the sale of, or work in, the Building or any Unit. The Owner and the Developer shall have the right to use any unsold Unit or Units as a model apartment or for sales or display purposes and to relocate the same from time to time and to maintain on the Property, until the sale of the last Unit, all models, sales offices, and advertising signs or banners, if any, and lighting in connection therewith. In addition to the foregoing, Developer, or its agents or designees, shall have access to, and ingress and egress over, the Property for purposes of taking images of the Property, or any part thereof, and to use such images

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in any materials as Developer shall choose; and such rights shall continue for a period one (1) year from the date hereof.

(d) There shall be no obstruction of the Common Elements, nor shall anything be stored in the Common Elements without the prior consent of the Association except as herein expressly provided. Each Unit Owner shall be obligated to maintain and keep his own Unit and the Limited Common Elements appurtenant thereto in good, clean order and repair. The use and the covering of the interior surfaces of windows, whether by draperies, shades, or other items visible on the exterior of the Building, shall be subject to the rules and regulations of the Association.

(e) Nothing shall be done or kept in any Unit or in the Common Elements that will increase the rate of insurance on the Property, without the prior written consent of the Association. No Unit Owner shall permit anything to be done or kept in his Unit, Storage Space, Parking Space or in the Common Elements that will result in the cancellation of any insurance maintained by the Association, or that would be in violation of any law. No waste shall be committed in the Common Elements.

(f) Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of the Building, and no sign, awning, canopy, shutter, or radio or television antenna (except as installed as of the date this Declaration is recorded or except as thereafter installed by Developer or the Association) shall be affixed to or placed on the exterior walls or roof or any part thereof or on the Common Elements without the prior written consent of the Association.

(g) No animals, livestock, fowl, or poultry of any kind shall be raised, bred, or kept in any Unit or in the Common Elements, except that household pets, such as dogs, cats, birds and fish of a Unit Owner may be kept in Units, provided said animals are of a breed or variety commonly kept as household pets, are not kept or bred for a commercial purpose, are not allowed to run loose on the Property and are kept in strict accordance with such rules and regulations adopted by the City of Chicago and by the Association, which rule or regulation may exclude any kind of pet by type or category, provided that permitted household pets are not kept, bred or maintained for any commercial purpose; and provided further that any such authorized pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon thirty (30) days written notice from the Association. The limit of dogs and cats shall be no more than two (2) dogs limited to the size of up to 75 lbs. or up to two (2) cats, or any combination thereof with maximum limit of two pets per Unit.

(h) No noxious or offensive activity shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently, that may be or become an annoyance or nuisance to the other Unit Owners or occupants.

(i) Except as constructed or altered by or with the permission of the Developer or the Association, nothing shall be done in any Unit or in, on, or to the Common Elements that would impair the structural integrity, safety, or soundness of the Building or that would structurally change the Building.

(j) No clothes, sheets, blankets, laundry, or other articles of any kind shall be hung out or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris, and other unsightly materials.

(k) Nothing shall be altered or constructed in or removed from the Common Elements except as constructed or altered by or with the permission of the Developer at any time before the first annual meeting of the Unit Owners without the written consent of the Association.

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(l) Each Unit Owner and the Association hereby waive and release any and all claims he or it may have against any other Unit Owner; the Association, members of the Board, the Developer, the Owner, the beneficiaries of the Owner, and their respective employees and agents, for damage to the Common Elements, the Units, or any personal property located in the Units or Common Elements, caused by fire or other casualty or any act or omission referred to in this Declaration, to the extent that such damage is covered by fire or other form of hazard insurance.

(m) If the act or omission of a Unit Owner, or of a member of his family, a household pet, guest, occupant or visitor of such Unit Owner, shall cause damage to the Common Elements or to a Unit or Units owned by others, or maintenance, repairs, or replacements shall be required that would otherwise be at the Common Expense, then such Unit Owner shall pay for such damage and such maintenance repairs, and replacements, as may be determined by time Association, to the extent such payment is not waived or released.

(n) Any release or waiver referred to in this Declaration shall be valid only if such release or waiver does not affect the right of the insured under the applicable insurance policy to recover thereunder.

(o) No Unit Owner shall overload the electric wiring in the Building and garage, or operate any machines, appliances, accessories, or equipment in such manner as to cause, in the judgment of the Association, harm and unreasonable disturbance to others.

(p) This Article VIII shall not be construed to prevent or prohibit a Unit Owner from maintaining his personal professional liability, keeping his personal business or professional records or accounts, handling his personal business or professional telephone calls, or conferring with business or professional associates, clients, or customers in his or her Unit.

(q) During the period that the Declarant, the Developer, or their respective agents, successors or assigns, are engaged in the marketing, sales or leasing of Units, or performing work or about the Building Declarant and Developer and their respective agents, employees, successors, assigns, contractors, subcontractors, brokers, licensees and invitees and each of them shall be entitled to:

(i) have access, ingress and egress to and from the Building and Common Elements and use such portion of the Building and Common Elements as may be necessary or desirable in connection with the aforementioned marketing, sales, leasing of Units or performance of work;

(ii) use or show one or more unsold and un-conveyed Units or portion or portions of the Common Elements as a model Unit or Units (for sale or lease), sales office, construction, or refurbishment office or administrative or management offices or for such other purposes deemed necessary or desirable in connection with the aforementioned construction, refurbishment, administration, marketing, sales or leasing of Units or performing work in or about the Building;

(iii) post and maintain such signs, banners and flags, or other advertising material in, or about the Building and Common Elements in such form as deemed desirable by Declarant or Developer, and as may be deemed necessary or desirable in connection with the marketing, sales, leasing or management of Units or performing work in or about the Building or in connection with (i) and (ii) above; and

(iv) make alterations of and additions and improvements to, the Units or the Common Elements in connection with any of the Declarant's or Developer's activities in connection with the refurbishment, renovation of the Building or the construction, promotion, marketing, sales or leasing

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of the Units or performing work in or about the Building. The foregoing shall not be amended or modified in any manner without the express written consent of the Developer or its successors or assigns.

## ARTICLE IX VIOLATION OF DECLARATION AND REMEDIES

9.01. Violations. Upon the occurrence of any one or more of the following events, the Board shall have the rights and remedies set forth in Section 9.02 of this Declaration:

(a) Failure by a Unit Owner to pay when due any sums required to be paid by such Unit Owner pursuant to any of the provisions of this Declaration, for thirty (30) days after written notice of such non-payment shall have been given such Unit Owner.

(b) Violation or breach by a Unit Owner, his tenant, invitee or guest of any provision, covenant or restriction of the Act, Declaration, the By-laws, contractual obligation to the Board or Association undertaken by such Unit Owner, or rules and regulations promulgated by the Board, and continuation of such violation or breach for thirty (30) days after written notice thereof shall have been given such Unit Owner.

9.02. Remedies. Upon the occurrence of any one or more of the events described in Section 9.01, the Board shall have the following rights and remedies:

(a) The Board shall have the right to immediate possession of the defaulting Unit Owner's Unit after service by the Board on such Unit Owner, in the manner set forth in this Declaration, of a notice to quit and deliver up possession which right may be enforced by an action for possession under "An Act in Regard to Forcible Entry and Detainer," approved February 16, 1874, as amended.

(b) For a violation or breach described in Section 9.01(b) hereof, the Board shall have the right: (i) to enter upon that part of the Property where such violation or breach exists and summarily abate and remove or do whatever else may be necessary to correct at the expense of the defaulting Unit Owner, any such violation or breach or the cause of such violation or breach, and the Declarant, or Developer, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or (ii) to enjoin, abate, or remedy by a proceeding at law or in equity the continuance of any such violation or breach.

(c) Upon the occurrence of one of the events described in Section 9.01(a) hereof, including without limitation, failure by a Unit Owner to pay his percentage share of Common Expense, or user charges, the Board shall have a lien on the interest of the defaulting Unit Owner in his Unit Ownership in the amount of any sums due from such Unit Owner; provided, however, that such lien shall be subordinate to the lien of a prior recorded mortgage on the interest of such Unit Owner. Except as hereinafter provided, the lien provided for in this Section 9.02(c) shall not be affected by any transfer of title to the Unit Ownership. Where title to the Unit Ownership is transferred pursuant to a decree of foreclosure or by deed or assignment in lieu of foreclosure-such transfer of title shall, to the extent permitted by law, extinguish the lien described in this Section 9.02(c) for any sums which became due prior to (i) the date of the transfer of title or (ii) the date on which the transferee comes into possession of the Unit, whichever occurs first. However, the transferee of a Unit Ownership shall be liable for his share of any sums with respect to which a lien against this Unit Ownership has been extinguished pursuant to the preceding sentence which are reallocated among the Unit Owners pursuant to a subsequently adopted annual revised or special assessment, and non-payment thereof by such transferee shall result in a lien against the transferee's Unit Ownership as provided in this Section 9.02(c).



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(d) Following the thirty (30) day notice in Section 9.01(b), the Board shall have the power to terminate the right of said defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use, or control his Unit and thereupon an action may be filed by the Board against the defaulting Unit Owner for a decree declaring the termination of the defaulting Unit Owner's right to occupy, use or control the Unit owned by him and ordering that all the right, title and interest of said defaulting Unit Owner in the Property shall be sold at a judicial sale, upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the defaulting Unit Owner from reacquiring his interest in the Unit Ownership at such judicial sale. It shall be a condition of any such sale, and the decree shall so provide that purchaser shall take the interest in the Unit Ownership sold subject to this Declaration. The proceed of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments or other sums due hereunder or any liens shall be paid to the defaulting Unit Owner. Upon the confirmation of such sale, the purchaser at such sale shall be entitled to a deed to the Unit Ownership and to immediate possession of the Unit sold and may apply to the court for an order for possession for the purpose of acquiring such possession.

(e) In addition to or in conjunction with the remedies set forth above, the Board or its agents shall have the right to bring an action at law or inequity against the Unit Owner or occupant of the Unit as permitted by law including, without limitation, an action (i) to foreclose a lien against the Unit Ownership, (ii) for damages, injunctive relief, or specific performance, (iii) for judgment or for the payment of money and the collection thereof and for a possession order, (iv) for any combination of the remedies set forth in this Article and (v) for any other relief which the Board or court may deem necessary or appropriate. Any and all rights and remedies provided for in the act, this Declaration, the By-laws, contractual obligation to the Board or Association undertaken by such Unit Owner, or rules and regulations promulgated by the Board may be exercised at any time and from time to time cumulatively or otherwise by the Board in its discretion. The failure of the Board to exercise any such rights or remedies to enforce any provisions of this Declaration, the By-laws or rules and regulations of the Board shall in no event be deemed a waiver of the right to do so thereafter.

(f) Upon the occurrence of one of the events described in Section 9.01(a), the Board may accelerate the maturity of the remainder of installments of Common Expenses due from such defaulting Unit Owner for the balance of the assessment year.

(g) All expenses incurred by the Board in connection with any actions, proceedings or self-help in connection with the exercise of its rights and remedies under this Article, including without limitation court costs, reasonable attorneys' fees and all other fees and expenses, and all damages, together with interest thereon at the rate of eighteen percent (18%), or such lesser rate charged by law if such 18% be held to be in excess of the maximum legal rate allowable by law, per annum shall be charged to and assessed against the defaulting Unit Owner, and shall be added to and deemed part of his respective share of the Common Expenses, and the Board shall have a lien for all of the same upon the Unit Ownership of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all his personal property in his Unit or located elsewhere on the Property.

**9.03 Enforcement by Unit Owners.** Any aggrieved Unit Owner may enforce the provisions of this Declaration, the By-Laws, or any rules and regulations promulgated by the Board by an action at law or in equity against the defaulting Unit Owner (or occupant of his Unit) upon a violation or breach described in Section 9.01(b) hereof against any person or persons either to restrain such violation or breach or to recover damages.

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## ARTICLE X ASSESSMENTS, RESERVE FUND AND REMEDIES FOR NON-PAYMENT OF ASSESSMENTS

10.01. Purpose of Assessments. The Maintenance Assessment shall be used for the purpose of promoting the health, safety and welfare of the Property or any portion thereof and for the upkeep, operation, repair and maintenance of the Building, Common Elements and Limited Common Elements. The assessments levied shall be exclusively for the purpose of defraying maintenance expenses and accumulating reserves to defray any extraordinary maintenance expenses.

10.02. Maintenance Assessment. Each year on or before November 1st the Board shall cause to be prepared and furnish each Unit Owner with a proposed budget for the ensuing calendar year and notice of the Board meeting concerning the adoption of the proposed budget. Such budget shall show the following with reasonable explanations and itemizations:

- (a) The estimated maintenance expenses;
- (b) The estimated amount, if any, required to maintain adequate reserves for extraordinary maintenance expenses, including without limitation amounts required to maintain the Reserve;
- (c) The estimated net excess funds, if any, from the current year's assessments;
- (d) The amount of the Maintenance Assessment payable with respect to the ensuing year by the Unit Owners, which amount is defined as the amount determined in (a) above plus the amount determined in (b) above minus the amount determined in (c) above;
- (e) That portion of the Maintenance Assessment which shall be payable each month by each Unit Owner.

10.03. Revised Assessment. If the Maintenance Assessment proves inadequate for any reason (including the non-payment of any Unit Owner's assessment) or proves to exceed funds reasonably needed, the Board may increase or decrease the assessment payable under Section 10.02 by giving written notice thereof (together with a revised budget and explanation for the adjustment) to each Unit Owner not less than thirty (30) days prior to the effective date of the revised assessment.

10.04. Special Assessment. The Board may levy a special assessment as hereinafter provided (i) to pay (or build up reserves to pay) expenses other than Maintenance Expenses incurred or to be incurred by the Association from time to time for a specific purpose including, without limitation, maintenance, the landscaping, to perform maintenance due to ordinary wear and tear to the Property, Building, Limited Common Elements and Common Elements; or (ii) to cover an unanticipated deficit under the prior year's budget. Any special assessment shall be levied against all of the Unit Owners, share and share alike. No special assessment shall be adopted without the affirmative vote of at least 66-2/3% of the Unit Owners. The Board shall serve notice of a special assessment on all Unit Owners by a statement in writing giving the specific purpose and reasons therefor in reasonable detail, and the special assessment shall be payable in such manner and on such terms as shall be fixed by the Board. Any assessments collected pursuant to this Section (other than those to cover an unanticipated deficit under the prior year's budget) shall be segregated in a special account and used only for the specific purpose set forth in the notice of assessment.

10.05. Due Dates. The periodic assessments provided for herein shall be due and payable on the first day of each month or other applicable period, or at such other times as the Board of Directors shall determine. The due date of any special assessment shall be fixed in the resolution authorizing such assessment.

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10.06. Capital Reserve. The Association shall segregate and maintain a special reserve account to be used solely for making capital expenditures (the "Capital Reserve"). The Board shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of improvements to the Common Elements, and the portions of the Property for which the Association is responsible for maintaining, and periodic projections of the cost of anticipated major repairs or replacements.

10.07. Initial Capital Contribution. Upon the closing of the first sale of every Unit by the Owner to a purchaser for value, the purchasing Unit Owner shall make a capital contribution to the Association in an amount equal to two (2) months of Maintenance Assessment at the rate in effect with respect to the Unit as of the closing date. Said amount shall be non-refundable, and shall be held and used by the Association for its working capital needs. There is no representation by the Declarant as to the sufficiency of the initial reserve which shall be created by such initial capital contributions.

10.08. Assessments During Development Period. Each month each Unit Owner shall pay as its monthly Maintenance Assessment in the amount determined by the budget. The Owner shall have no obligation to pay any Maintenance Assessment with regard to any Unit for which title has not been conveyed by Owner, provided, however, that in the event Owner enters into a lease for any Unit, then Owner shall be responsible for the payment of assessments on those Units on the same basis as any other Unit Owner. Subject to the above, the Owner hereby agrees to satisfy any deficit or shortage in the Association's operating budget for any period in which the Owner is not obligated to pay assessments pursuant to this Section 10.08.

10.09. Payment of Assessments. Assessments levied by the Association shall be collected from each Unit Owner by the Association, or as the Board may direct, and shall be a lien on the Unit Owner's Unit and also shall be a personal obligation of the Unit Owner in favor of the Association, all as more fully set forth in this Article X.

10.10. Maintenance of Records. The Board shall keep full and correct books of account in chronological order of the receipts and expenses for which it is responsible, specifying and itemizing the maintenance and repair expenses as well as any other expenses incurred. Such records and vouchers authorizing the payments shall be available for inspection by any Unit Owners at such reasonable time or times, during normal business hours, as may be requested by the Unit Owner. Upon ten (10) days' notice to the Board and payment of a reasonable fee any Unit Owner shall be furnished a statement of its account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

10.11. Creation of Lien and Personal Obligation. The Owner hereby covenants, and each Unit Owner by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed or other conveyance) shall be and is deemed to covenant and hereby agrees to pay to the Association all charges made with respect to the Unit Owner on the Unit Owner's Unit. Each charge, together with interest thereon and reasonable costs of collection, if any, as hereinafter provided, shall be a continuing lien upon the Unit against which such charge is made and also shall be the personal obligation of the Unit Owner at the time when the charge becomes due. Owner hereby agrees that during the development period, any amounts which become payable from the Owner to the Association under Section 11.07 shall be a continuing lien against the Units owned by Owner at the time that the payment becomes due. The lien or personal obligation created under this Section shall be in favor of and shall be enforceable by the Association.

10.12. Lien for Charges Subordinated to Mortgages. The lien for charges, provided for in Section 11.11, shall be subordinate to the Mortgagee's mortgage on the Unit if such mortgage was recorded prior to the date that any such charge became due. Except as hereinafter provided, the lien for charges shall not be affected by any sale or transfer of a Unit. Where title to a Unit is transferred pursuant to a decree of foreclosure of the Mortgagee's mortgage or by deed or assignment in lieu of foreclosure of the Mortgagee's

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mortgage, such transfer of title shall extinguish the lien for unpaid charges which became due prior to the date of the transfer of title. However, the transferee of the Unit shall be personally liable for his share of the charges with respect to which a lien against his Unit has been extinguished pursuant to the preceding sentence where such charges are reallocated among all the Unit Owners pursuant to a subsequently adopted annual or revised Maintenance Assessment or special assessment and non-payment thereof shall result in a lien against the transferee's Unit, as provided in this Article.

10.13. Self-Help by Board. In the event of a violation or breach by a Unit Owner of the provisions, covenants or restrictions of this Declaration, the Bylaws, or rules or regulations of the Board, whenever such violation or breach may be cured or abated by affirmative action, the Board, upon not less than fifteen (15) days' prior written notice to the Unit Owner, shall have the right to enter upon that Unit with respect to which the violation or breach exists to remove or rectify the violation or breach.

10.14. Other Remedies of the Board. In addition to or in conjunction with the remedies set forth above, enforcement of any of the provisions contained in this Declaration or any rules or regulations adopted hereunder may be by proceeding at law or in equity by the Association against any person or persons violating or attempting to violate any such provision either to restrain such violation, require performance, recover sums due or payable, or recover damages, and/or against the land to enforce any lien created hereunder; and failure by the Association or any Unit Owner to enforce any provision shall in no event be deemed a waiver of the right to do so thereafter.

10.15. Costs and Expenses. All costs and expenses incurred by the Board in connection with any action, proceedings or self-help in connection with exercise of its rights and remedies under this Article, including, without limitation, court costs, attorney fees and all other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the maximum legal general rate permitted by Illinois law until paid, shall be charged to and assessed against the defaulting Unit Owner, and the Association shall have a lien for the same upon his or her Unit.

10.16. Mechanic's Liens. The Board may cause to be discharged any mechanic's lien or other encumbrance which in the opinion of the Board may constitute a lien against the Building or Association. Where less than all of the Unit Owners are responsible for the existence of said lien, such Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same, and for all expenses including attorneys' fees and court costs incurred by reason of the lien.

## ARTICLE XI MISCELLANEOUS PROVISIONS

11.01. Owner's Rights and Responsibilities Prior to Formation of Association. Until such time as the Association is formed, the Owner may exercise any of the powers, rights and functions of the Association and shall be responsible for all obligations and responsibilities of the Board hereunder.

Until the first annual meeting of Unit Owners is called, the Owner, or its successors or assigns, shall have the right to change or modify this Declaration or Condominium Instruments, which change or modification shall be effective upon the recording thereof, provided further that such right shall be exercised only (a) to bring the Declaration into compliance with the Act, (b) to correct clerical or typographical errors in the Declaration, or (c) to conform the Condominium Instruments to the requirements of FHLMC or the FNMA with respect to condominium projects. In furtherance of the foregoing, a power coupled with and interest is hereby reserved and granted to the Owner to make any change or modification as authorized hereunder on behalf of each Unit Owner as attorney in fact for such Unit Owner. Each deed, mortgage, other evidence of obligation, or other instrument affecting a Unit 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 Owner as aforesaid.



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11.02. Indemnification of the Owner. The Association and Unit Owners, as the case may be, and their respective assigns, successors and representatives shall defend, indemnify and hold harmless the Owner, its partners, members and managers, officers and directors and their respective attorneys, employees and agents from any injury, claim, demand, suit, judgment, execution, liability, damages or penalty (hereinafter collectively referred to as "claims") arising out of or resulting from any acts or omissions of the Association or Unit Owners, their respective assigns, successors or representatives. The Association or Unit Owners, as the case may be, shall pay all expenses incurred by the Owner in defending itself with regard to any claim, including out-of-pocket expenses such as attorneys and expert fees and the reasonable value of any services rendered by any employee of the Owner. Nothing in this Section shall be deemed to indemnify the Owner against any claims arising out of or from the grossly negligent and willful acts or omission of the Owner.

11.03. Mortgagee Entitlement to Notices and other Rights. Upon written request to the Board, any Mortgagee shall be entitled to be given a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner whose Unit is subject to such mortgage or trust deed.

Any mortgage owned or held by a mortgagee and recorded before the Recording or mailing of a notice by the Association of the amount owing by a Unit Owner who has refused or failed to pay its share of the monthly assessment when due shall be superior to the lien of such unpaid Common Expenses set forth in the notice and to all assessments for Common Expenses that become due and are unpaid subsequent to the date of Recording of such first mortgage. Any mortgagee who comes into possession of a Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure shall not be liable for and shall take the Unit and its proportionate interest in the Common Elements free from claims for unpaid common or special assessment levied by the Association that accrue before the date of possession as aforesaid.

No provision of this Declaration or any similar instrument pertaining to the Property or the Units therein shall be deemed to give a Unit Owner or any other party priority over the rights of the mortgagee pursuant to their mortgages in the case of distribution of Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of the Unit, and/or the Common Elements, or any portion thereof or interest therein. In such event, the mortgagee, insurers or guarantors of the Units affected shall be entitled, upon specific written request, to the timely written notice of any such loss.

A mortgagee, or an insurer or guarantor of the note held by a mortgagee, upon written request to the Association (such request to state name and address of such mortgagee, insurer, or guarantor and the Unit number), shall be entitled to timely written notice of:

- (a) Any proposed action that requires the consent of a specified mortgagee;
- (b) Any proposed termination of the condominium project;
- (c) Any condemnation loss or any casualty loss that affects a portion of the Common Elements, which loss exceeds \$10,000.00, or affects any Unit, which loss exceeds \$1,000, on which there is a first mortgage held, insured, or guaranteed by such eligible holder;
- (d) Any delinquency in the payment of assessments or charges owed by an owner of a Unit subject to the mortgage of a First Mortgagee, insurer, or guarantor, when such delinquency has continued for a period of 60 days; and

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(e) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

## Additional Rights of First Mortgagees:

(i) Any restoration or repair of the Property after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications for the Building unless the approval is obtained from at least 50% of the Unit Owners and the eligible First Mortgagees of Units that represent at least 50% of the Units subject to a mortgage held by an eligible First Mortgagee.

(ii) Any election to terminate the condominium project after substantial destruction or substantial taking by condemnation of the Property shall require the approval of at least 50% of the Unit Owners and the eligible First Mortgagees of Units that represent at least 50% of the Units subject to a mortgage held by an eligible First Mortgagee.

11.04. Non-Enforcement of Covenants not a Waiver. No covenants, restrictions, conditions, obligations or provisions 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.

11.05. Invalidity of Covenant. The invalidity of any covenant or restriction hereby imposed, or of any provision hereof, or any part of such restriction or provision, shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration, and all of the terms hereof are hereby declared to be severable.

11.06. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating an appropriate plan for the ownership, operation and maintenance of the Property, on the terms and conditions set forth herein.

11.07. Responsibility of Trust Beneficiaries. In the event title to any Unit is conveyed to a land title-holding trust, under the terms of which all powers of management, operation and control of the Unit remain vested in the trust beneficiary or beneficiaries, then the Unit under such trust and the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Unit. No claim shall be made against any such title-holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Unit and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title of such Unit. Notwithstanding the above, it is expressly understood and agreed, anything herein to the contrary notwithstanding, that any liability on the part of Owner under this Declaration is enforceable solely against the interest of the Owner or Trustee in the Property and not any other assets of Owner. No personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against Owner (or any managers, members, officers, directors, partners, agents, or employees of Owner) on account of this Declaration, or any act pursuant hereto or on account of any representation, covenant, undertaking or agreement of Owner in this Declaration, contained either express or implied, all such personal liability, if any, being expressly waived and released.

11.08. Enforcement of Declaration. This Declaration and the various covenants and restrictions therein contained may be enforced by the Owner, the Association, by any Unit Owner, and by any other person specifically authorized herein to enforce them or for whose benefit they are created. Enforcement of this

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Declaration and the various covenants and restrictions therein contained may be sought by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation, to compel affirmative action or to recover damages, and against the land to enforce any lien created by this Declaration. All expenses incurred by any party so enforcing this Declaration, including court costs and attorney fees, shall be borne by the party against whom the enforcement proceedings are maintained.

Notwithstanding anything herein to the contrary, the Board shall not institute any significant legal proceeding, including any arbitration or judicial reference proceeding, against any person with providing the Unit Owners with at least thirty (30) days prior written notice of the Association's intention to institute legal proceedings. The notice shall describe the purpose of the proceeding, the parties to the proceeding, the anticipated cost to the Association (including attorneys' fees) in processing the proceeding, the source of funds to process the proceeding (reserves or special or regular assessments), and suggested information that should be disclosed to third parties, such as prospective purchaser and lenders, while the proceeding is being prosecuted. For purposes herein, "significant legal proceeding" shall mean any legal proceeding in which it reasonably could be anticipated that any of the following events could occur:

- (a) The levy of a special assessment to fund all or any portion of the costs of the proceeding;
- (b) The expenditure of funds from the Association's reserves in connection with the proceeding in an amount in excess of five percent (5%) of the then current reserves;
- (c) The amount of the claim is in excess of Fifteen Thousand and No/100 Dollars (\$15,000.00); or
- (d) The action could have a material adverse effect on the ability to sell and/or refinance the Unit during the period the proceeding is being prosecuted.

Notwithstanding the foregoing, the notice shall not be required to commence and pursue any action to collect delinquent assessments. Furthermore, if the Board in good faith determines that there is insufficient time to provide prior notice to the Unit Owners as required herein prior to the expiration of any applicable statute of limitations or prior to the loss of any other significant right of the Association, the Board may take the necessary steps to commence the proceeding to preserve the rights of the Association, provided that as soon as is reasonably practical thereafter, and not later than thirty (30) days following the commencement of the proceeding, the Board shall provide the Unit Owners with notice as required herein.

11.09. Recordation of Declaration. This Declaration shall be recorded with the Recorder of Deeds of Cook County, Illinois, and all contracts and deeds of conveyance relating to the Real Estate or any part thereof shall be subject to the provisions of this Declaration.

11.10. Entry by Association. The Association or its officers, agents, or employees may enter any Unit when necessary in connection with any painting, maintenance, repair, or reconstruction for which the Association is responsible, or which the Association has the right or duty to do. Such entry shall be made with as little inconvenience to the Unit Owner as practicable, and except in the event of emergency, shall be done upon reasonable notice to the Unit Owner. Any damage caused thereby shall be repaired by the Association as a Common Expense.

11.11. Grantees. Each grantee of the Owner and each tenant under a lease accepts the same subject to all easements, restrictions, conditions, covenants, reservations, liens and charges, the Bylaws, the rules and regulations of the Association, and the jurisdiction, rights, and powers created or reserved by this Declaration and the provisions of the Act, as at any time amended, and all easements, rights, benefits, and privileges of every charter hereby granted, created, reserved, or declared and all impositions and obligations

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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 said land, and shall inure to the benefit of each grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

11.12. Notices. Whenever any notice is required to be given under the provisions of this Declaration or the Bylaws, a waiver thereof in writing by the person or persons entitled to such notice, whether before or at the time stated therein, shall be deemed equivalent to the giving of such notice, provided such waiver or the time of giving it is not contrary to the provisions of the Act. Notices required to be given to any devisee or personal representative of a deceased Unit Owner shall be delivered by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased owner is being administered. Other notices required or permitted to be given shall be in writing and shall be given in the manner set forth in the Condominium Instruments.

Notices required to be given any devisee, heir or personal representative of a deceased Unit Owner may be delivered either personally or by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased Unit Owner is being administered.

11.13. Amendments. Except as hereinafter otherwise provided, the provisions of this Declaration may be amended, changed, or modified by an instrument in writing setting forth such amendment, change, or modification, signed and acknowledged by all members of the Board, all of the Unit Owners, and each mortgagee having a bona fide lien of record against any Unit. Except as herein otherwise provided, provisions of this Declaration may be amended, changed, or modified, upon approval by all members of the Board and 75% of the Unit Owners, by an instrument in writing setting forth such amendment, change, or modification, signed and acknowledged by an authorized officer of the Board and containing an affidavit by an officer of the Association certifying that (a) at least 75% of the Unit Owners have approved such amendment, change or modification, and (b) a copy of the amendment, change, or modification which has been sent by certified mail to all mortgagees having bona fide liens of record against any Unit, not less than ten (10) days before the date of such affidavit. The approval of 75% (by percentage ownership) of Units shall be required to materially amend any provisions of the Declaration or Bylaws or to add any material provisions thereto that establish, provide for, govern, or regulate any of the following:

- (a) Increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or subordination of such liens;
- (b) Reserves for maintenance, repair, and replacement of the Common Elements;
- (c) Insurance or fidelity bonds;
- (d) Rights to use the Common Elements;
- (e) Responsibility for maintenance and repair of the Common Elements;
- (f) Leasing of Units;
- (g) Establishment of self-management by the Association when professional management has been required by FHLMC, FNMA, HUD, FHA or VA;
- (h) Hazard or fidelity insurance requirements; or
- (i) Any provisions that expressly benefit mortgage holders, insurers, or guarantors.



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Any change to the right to of an Owner to lease their unit shall require approval by 100% of the Owners. No change, modification or rescission shall change the boundaries of any Unit, the allocation of percentages of ownership in the Common Elements and votes in the Association, quorum and voting requirements for action by the Association, or liability for common expenses assessed against any Unit except to that Unit authorized by other provisions of this Declaration or the Act. Any amendment, change, or modification shall conform to the provisions of the Act and shall be effective upon recordation thereof. No change, modification, or amendment that affects the rights, privileges, or obligations of the Owner or the Developer shall be effective without the prior written consent of the Owner or Developer. The Bylaws, attached hereto as Exhibit "B", may be amended in accordance with the provisions of Article XI thereof.

11.14. Partial Invalidity. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

11.15. Perpetuities and Other Invalidity. If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) 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 Donald. J. Trump, President of the United States.

11.16. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first-class condominium development.

11.17. Special Amendment. Developer and/or 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 (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Unit Ownership, (iii) to bring this Declaration into compliance with the Act, (iv) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto, (v) to reflect "Projected" Units (as labeled on the attached Plat of Survey) as actual or depicted Units, or (vi) as required or mandated by any local governing or quasi-governing authority. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Developer and/or Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each Unit 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 a Unit, 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 Developer and/or Declarant to vote in favor of, make, execute and record Special Amendments.

11.18. Condemnation. In the event of a taking or condemnation by competent authority of any part of the Property, the Association shall, if necessary, restore the improvements on the remaining portion of the Property to conform as closely as possible to the general design, structure, and materials used with respect to the improvements as they existed before the taking or condemnation. In the event that part or all of one or more Units is taken or condemned, then the portions so taken or condemned shall be deemed to have been removed from the provisions of the Act and the percentage of ownership interest in the Common Elements allocated to such Unit or portion thereof, (as determined by the Board on the basis of diminution

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in market value of the Unit) shall be reallocated among the remaining Units on the basis of the relative percentage of ownership interests in the Common Elements of the remaining Units. In such cases, this Declaration and the Plat shall be amended accordingly, pursuant to the provisions of the Act. The allocation of any condemnation award or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis, which need not be a Unit's percentage of interest in the Common Element. Any condemnation award or other proceeds available in connection with the withdrawal of any portion of the Common Elements, not necessarily including the Limited Common Elements, shall be allocated on the basis of each Unit Owner's percentage of interest in the Common Elements. Any such proceeds available from the withdrawal of Limited Common Elements shall be distributed in accordance with the interests of those entitled to their use. Upon the withdrawal of any Unit or portion thereof, the responsibility for the payment of assessments on such Unit or portion thereof so withdrawn shall cease or shall be equitably reduced.

11.19. Right of First Refusal. The Association shall have no right of first refusal under this Declaration if a Unit Owner wishes to sell or transfer its Unit to another purchaser at a price and on terms acceptable to the Unit Owner.

11.20. Assignment by Declarant. All rights which are specified in the Declaration to be rights of the Owner or Declarant are mortgage-able, pledge-able, assignable or transferable. Any successor to, or assignee of, the rights of the Declarant hereunder (whether as the result of voluntary assignment, foreclosure, assignment in lieu of foreclosure or otherwise) otherwise shall hold or be entitled to exercise the rights of the Declarant hereunder as fully as if named as such party herein. No party exercising rights as the rights of the Declarant hereunder shall have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights.

IN WITNESS WHEREOF, the said Declarant has executed this Declaration of Condominium on the day and year first written above.

Aspen Realty Partners, LLC, an Illinois limited liability company

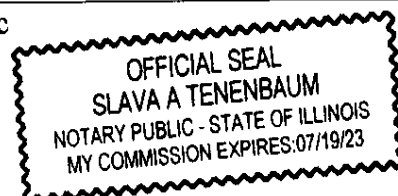
By: \_\_\_\_\_  
Gerard Scheffler, Manager  
Aspen Realty Partners, LLC

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF COOK            )

The undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Gerard Scheffler is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN, under my hand and seal this 19th day of December, 2020.

Notary Public



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## CERTIFICATE

Gerard Scheffler a member of Aspen Realty Partners, LLC, an Illinois limited liability company, hereby certifies:

1. Aspen Realty Partners, LLC, an Illinois limited liability company, is the Owner of 2342 West Foster Condominiums located at 2342 W. Foster Ave., Chicago, Illinois.

2. The Parcel described in Article 2 of the Declaration of Condominium to which this Certificate is attached is a new construction condominium as defined in the Illinois Condominium Property Act, and no Notice of Intent is required under the Act.

In Witness Whereof, the undersigned executed this Certificate on the 19th day of December, 2020.

Aspen Realty Partners, LLC, an Illinois limited liability company

By:

Gerard Scheffler, Manager  
Aspen Realty Partners, LLC

STATE OF ILLINOIS )

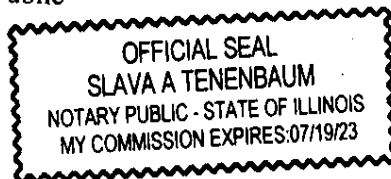
) SS

COUNTY OF COOK )

The undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Gerard Scheffler is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN, under my hand and seal this 19th day of December, 2020.

Notary Public



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## CONSENT OF MORTGAGEE

Centrust Bank, NA, as mortgagee and holder of the Construction Mortgage dated July 19, 2019, and recorded with the Recorder's Office of Cook County, Illinois, on August 29, 2019, as document number 1924145011, hereby consents: (1) to the execution and recording of the above and foregoing Declaration of Condominium, and hereby subordinates said mortgage to the provisions of foregoing Declaration of Condominium and the Condominium Property Act of the State of Illinois (the "Act"), and (2) to any Amendments to the Declaration.

IN WITNESS WHEREOF, the said Mortgagee has caused this instrument to be signed on its behalf on this 23 day of December, 2020.

By: [Signature]

Its: Chief Credit Officer

ATTEST: By: Kathy Lucignea

Its: AVP Administration

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 ERIC SIRINSKY as CHIEF CREDIT OFFICER of the Centrust Bank personally known to me to be the same person whose name is subscribed to the foregoing instrument as such CHIEF CREDIT OFFICER appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of said bank, for the uses and purposes therein set forth.

Given under my hand and seal, this 23<sup>rd</sup> day of December, 2020.

Commission expires: 07/26/2024

[Signature]  
Notary Public

OFFICIAL SEAL  
FLORICA GOCIMAN  
NOTARY PUBLIC - STATE OF ILLINOIS  
MY COMMISSION EXPIRES: 07/26/24



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## EXHIBIT "A"

### **TO THE DECLARATION OF CONDOMINIUM 2342 WEST FOSTER CONDOMINIUM ASSOCIATION**

#### LEGAL DESCRIPTION

LOT 64 IN O. B. CONKLIN'S SUBDIVISION OF PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 2342 W. Foster Avenue, 1-3 Chicago, IL 60625

Permanent Index Number(-s): 14-07-114-025-0000 (affects the underlying land)

Property of Cook County Clerk's Office

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## EXHIBIT "B"

### **TO THE DECLARATION OF CONDOMINIUM 2342 WEST FOSTER CONDOMINIUM ASSOCIATION**

#### **BYLAWS**

#### **ARTICLE I**

##### **General Provisions**

The Association is responsible for the overall administration of the Property through its duly elected Board. Whether or not incorporated, the Association shall have such powers, not inconsistent with the Act, as are now or may hereafter be granted by the General Not-For-Profit Corporation Act of the State of Illinois. The Association shall have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Association is organized and to do every other act not inconsistent with any law and which may be appropriate to promote and attain the purposes set forth in the Act or the Condominium Instruments.

The provisions of these By-Laws, the Act, the Declaration and all other Condominium Instruments, and any and all rules and regulations that relate to the use of a Unit or the Common Elements shall be applicable to any person leasing a Unit. All such provisions shall be deemed to be incorporated into any lease executed with respect to any Unit.

#### **ARTICLE II**

##### **Members**

Section 1. Classes of Members, Membership, and Termination Thereof. The Association shall have one class of members. The designation of such class and the qualifications of the members of such class shall be as follows:

Each Unit Owner shall be a member of the Association, and such membership shall terminate upon the sale or other disposition of such member's Unit, at which time the new Unit Owner shall automatically become a member of the Association. Such termination shall not relieve or release any such former Unit Owner from any liability or obligation incurred under or in any way connected with the condominium or the Association, during the period of such ownership and membership in the Association. Furthermore, such termination shall not impair any rights or remedies which the Board or others may have against such former Unit Owner arising from, or in any way connected with, such ownership and membership and the covenants and obligations incident thereto. No certificates of stock or other certificates evidencing membership shall be required to be issued by the Association.

##### Section 2. Votes and Voting Rights.

(a) Until the date of the first annual meeting of the members, as provided in Article III, Section 1 hereof no member of the Association shall have the right to elect the Board of Managers; all such members of the Board shall be appointed and shall hold office as provided in Article IV, Section 2 of these By-Laws.

(b) Commencing with the date of the said first annual meeting of the members, the total number of votes of all members shall be 100. Each member shall be entitled to the number of votes equal to his or her percentage ownership interest in the Common Elements (as defined in the Declaration) at the time any matter is submitted to a vote of the members.

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(c) If a Unit is owned by more than one person, the voting rights with respect to such Unit shall not be divided, but shall be exercised as if the Unit Owner consisted of only one person in accordance with the proxy or other designation made by the persons constituting such Unit Owner. Any proxy must be executed in writing by the Unit Owner or his or her duly authorized attorney in fact, must bear the date of execution, and shall be invalid after 11 months from the date of its execution. If only one of the multiple owners of a Unit is present, and if any one of the multiple owners casts the votes allocated to that Unit without protest to the person presiding over the meeting being made promptly by any of the other Owners of the Unit, there is deemed to be majority agreement.

(d) Any specified percentage of the members, whether majority or otherwise, for purposes of voting or for any other purpose, wherever provided in these By-Laws, shall mean such percentage of the total number of votes hereinabove set forth. Such percentage shall be computed in the same manner as is a specified percentage of the Unit Owners of the Condominium as provided in the Declaration, provided, however, that when 30% or fewer of the Units, by number, possess over 50% in the aggregate of the votes as provided herein, any percentage vote of the members specified herein or in the Declaration shall require the specified percentage by number of Units rather than by percentage of interest in the Common Elements allocated to Units that would otherwise be applicable.

Section 3. Transfer of Membership. Membership in this Association is not transferable or assignable, except as provided in Article II, Section 1 hereof.

Section 4. Installment Contracts. Anything herein to the contrary notwithstanding, in the event of a sale of a Unit, the purchaser of such Unit from a seller other than the Developer pursuant to an installment contract for deed shall, during such times as he or she resides in the Unit, be counted toward a quorum for purpose of election of members of the Board at any meeting of the Unit Owners called for the purposes of electing members of the Board, shall have the right to vote for the election of members of the Board and to be elected to and serve on the Board unless the seller expressly retains in writing any or all of such rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office or be elected and serve on the Board. Satisfactory evidence of the installment contract shall be made available to the Association or its agents. "Installment Contract" shall have the same meaning as set forth in 765 ILCS 75/1, Section 1(e) of "An Act Relating to Installment Contracts to Sell Dwelling Structures", approved August 11, 1967, as amended.

## ARTICLE III Meetings of Members

Section 1. Annual Meeting. The first annual meeting of the members shall be held on such date as is fixed by the Developer, which date shall in no event be later than the earlier of (a) three (3) years from the date the Declaration is recorded in the office of the Recorder of Deeds of Cook County, Illinois, (b) sixty (60) days from the date when 75% of the Units have been conveyed by the Declarant, or (c) such earlier time as selected by the Developer. Thereafter, an annual meeting of the members for the purpose of electing Board members and for the transaction of such other business as may come before the meeting shall be held on the first Tuesday after the anniversary date of the first annual meeting or such other date as is selected by the Board which date is within sixty (60) days before or after the first Tuesday after the anniversary date of the first annual meeting, provided, however, that no such meeting need be held less than one year after the first annual meeting of the members. If the election of members of the Board shall not be held on the day designated herein for any annual meeting, or at any adjournment thereof, the Board shall cause the election to be held at a special meeting of the members called as soon thereafter as conveniently may be.

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Section 2. Special Meeting. Special meetings of the members may be called by the Board, the President, or not less than all of the members. All matters to be considered at special meetings of the members called by not less than all of the members shall first be submitted in writing to the Board not less than ten (10) days prior to the date of the special meeting of the members called to consider such matters.

Section 3. Place and Time of Meeting. All meetings of the members shall take place at 8:00 p.m., in some section of the Property designated by the person or persons calling the meeting, or at such other reasonable place or time designated by the Board or the person or persons calling the meeting.

Section 4. Notice of Meetings. Written or printed notice stating the purpose, place, day and hour of any meeting of members shall be mailed or delivered to each member entitled to vote at such meeting, not less than ten (10) days nor more than thirty (30) days before the date of such meeting, by or at the direction of the President or the Secretary, or the officer or persons calling the meeting, provided that notice of the first annual meeting of the members shall be mailed or delivered not less than twenty-one (21) nor more than thirty (30) days before the date of such meeting. The notice of a meeting shall be deemed mailed when deposited in the United States mail addressed to the member at his or her address as it appears on the records of the Association, with proper postage thereon prepaid.

Section 5. Quorum. The members present at a meeting in person or by proxy, holding 66-2/3% of the votes which may be least at any meeting, shall constitute a quorum at such meeting. If a quorum is not present at the commencement of any meeting of members, the meeting shall be adjourned and may only be called again in accordance with the provisions of these By-Laws.

Section 6. Proxies. At any meeting of members, a member entitled to vote may vote either in person or by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy, and every proxy must bear the date of execution. Any proxy distributed by the Board for election of members of the Board shall give Unit Owners the opportunity to designate any person as the proxy holder and shall give the Unit Owner the opportunity to express a preference for any of the known candidates for the Board or to write in a name.

Section 7. Manner of Acting. Except as set forth below and except as otherwise required by the Declaration or the Act, any action to be taken at any meeting of the members at which a quorum is present shall be upon the affirmative vote of more than 50% of the members represented at such meeting. The following matter shall require the affirmative vote of 100% of all the Unit Owners at a meeting duly called for that purpose:

- (a) Merger or consolidation of the Association;
- (b) Sale, lease or exchange or other disposition (excluding the mortgage or pledge) of all, or substantially all, of the property and assets of the Association; or
- (c) The purchase and sale of land or Units on behalf of the Unit Owners.



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## ARTICLE IV Board

**Section 1. In General.** The affairs of the Association shall be managed by its Board of Managers, which shall act as the Board of Managers of the Condominium as provided in the Act and the Declaration.

**Section 2. Number, Tenure and Qualifications.** The initial number of members of the Board shall be at least two (2) until the turnover by the Developer of the Association, at which time the Board shall have three (3) members. Until the date of the first annual meeting of the members as hereinabove provided, members of the Board shall be the directors named in the Articles of Incorporation of the Association if the Association is incorporated; otherwise, the members of the Board shall be as appointed by the Developer. Such members of the Board shall hold office until the first annual meeting of the members. Commencing with the date of the first annual meeting of the members, the members of the Board shall each be elected solely by, from and among, the members for a term of one year and until their respective successors have been elected and qualified. All members of the Board shall be elected at large. The Board elected at such first annual meeting shall be the initial Board of Managers as provided in the Act. Each member of the Board shall hold office without compensation. In the event that a member of the Board is a legal entity other than a natural person or person, then any shareholder, officer or director of such corporation, partner of such partnership, beneficiary or individual trustee of such trust, or manager of such other legal entity, may be eligible to serve as a member of the Board. Notwithstanding the above, only one person from each Unit may be a member of the Board. A member of the Board may succeed himself or herself in office.

**Section 3. Election.** At each annual meeting of the members, the members shall be entitled to vote on a cumulative basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Any candidate for election to the Board or such candidate's representative shall have the right to be present at the counting of the ballots at such election. The Board may disseminate to Unit Owners biographical and background information about candidates for election to the Board if: (a) no preference is expressed in favor of any candidate; and (b) reasonable efforts to identify all candidates are made and all candidates are given an opportunity to include biographical and background information in the information to be disseminated.

**Section 4. Regular Meetings.** A regular annual meeting of the Board shall be held immediately after, and at the same place as, the annual meeting of members. The Board shall, by regulations which the Board may, from time to time adopt, provide the time and place for the holding of additional regular meetings of the Board, provided that the Board shall meet at least four times per year.

**Section 5. Special Meetings.** Special meetings of the Board may be called by or at the request of the President or any two members of the Board. The person or persons permitted to call special meetings of the Board may fix the time and place for holding any special meeting of the Board called by them.

**Section 6. Notice.** Written notice of any special meeting of the Board shall be mailed or delivered to all members of the Association at least 48 hours prior to date of such special meeting. Written notice of regular meetings of the Board shall be mailed or delivered to all members of the Association at least 48 hours prior to the date of such meeting. All such notices shall be deemed to be mailed when deposited in the United States mail addressed to each member at his or her address as it appears on the records of the Association, with proper postage thereon prepaid. The business to be transacted at, or the purpose of any regular or special meeting of the Board, shall be specified in the notice. Notices of a regular meeting of the Board need not be served on members of the Board. However, copies of said notices of meetings of the

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Board shall be posted in entranceways or other conspicuous places in the condominium designated by the Board at least 48 hours prior to the meeting.

Section 7. Quorum. A majority of the members of the Board shall constitute a quorum for the transaction of business at any meeting of the Board. If less than a majority of the members of the Board are present at the commencement of said meeting, the meeting shall be adjourned and may only be called again in accordance with the provisions of these By-Laws.

Section 8. Manner of Acting. The act of a majority of the members of the Board present at a meeting at which a quorum is present at the commencement of the meeting shall be the act of the Board, except where otherwise provided by law or in the Condominium Instruments.

Section 9. Vacancies. Any vacancy occurring in the Board by reason of death, removal or resignation of a member of the Board shall be filled by a two-thirds vote of the remaining members of the Board. A member elected to fill a vacancy shall be elected until the next annual meeting of the members of the Association; provided that if a petition signed by members of the Association holding 50% of the votes in the Association requesting a meeting of the members to fill the vacancy for the balance of the unexpired term of his predecessor, the term of the member so elected by the Board shall terminate 30 days after the filing of the petition and a meeting of the members for the purpose of filling such vacancy for such unexpired term shall be called no later than 30 days following the filing of such petition. Members of the Board, including those appointed by the Developer, may resign at any time by written resignation delivered or mailed to any officer of the Association, which resignation shall be effective upon receipt of said resignation. If as the result of death, removal or resignation of a member of the Board, no member of the Board remains in office, a special meeting of the members of the Association may be called to fill all vacancies for the unexpired term of the members of the Board.

Section 10. Removal. From and after the date of the first annual meeting of the members, any member of the board may be removed from office by the affirmative vote of 66-2/3% of all the members of the Association at a special meeting called for such purpose.

Section 11. Adoption of Rules and Regulations. All rules and regulations, or amendments thereto, shall be adopted by the Board after a meeting of the members called for the specific purpose of discussing the proposed rules and regulations, notice of which contains the full text of the proposed rules and regulations, which rules and regulations conform to the requirements of Section 18 of the Act and the Declaration and these By-Laws. No quorum is required at such meeting of the members. No rules or regulations may impair any rights guaranteed by the First Amendment to the Constitution of the United States or Section 4 of Article I of the Illinois Constitution. Such rules and regulations shall be effective sixty (60) days after their adoption, provided that the members may veto the rules or regulations at a special meeting of the members called for such purpose, and held before the effective date of the rule or regulation, by a vote of 66-2/3% of all the members of the Association.

Section 12. Open Meeting. All meetings of the Board, whether regular or special, shall be open to the members of the Association except for meetings:

(a) To discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probable or imminent;

(b) To consider information regarding appointment, employment or dismissal of an employee; or

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(c) To discuss violations of rules and regulations of the Association or a Unit Owner's unpaid share of Common Expenses.

Any vote on the above matters shall be taken at a meeting or portion thereof open to any member. Any member may record the proceedings at meetings required to be open by the Act or these By-Laws by tape, film, or other means, subject to reasonable rules and regulations prescribed by the Board to govern the right to make such recordings.

Section 13. Contracts. The Board may not enter into a contract with a current board member or with a corporation or partnership in which a board member or a board member's immediate family has a twenty-five percent (25%) or more interest, unless notice of intent to enter the contract is given to Unit Owners within twenty (20) days after a decision is made to enter into the contract and the Unit Owners are afforded an opportunity by filing a petition, signed by fifty percent (50%) of the Unit Owners, for an election to approve or disapprove the contract. Such petition shall be filed within twenty (20) days after such notice and such election shall be held within thirty (30) days after filing the petition. For purposes of this Section 13, a board member's immediate family means the board member's spouse, parents and children.

Section 14. Powers and Duties. The powers and duties of the Board shall include, but not be limited to, the operation, care, upkeep, maintenance, replacement and improvement of the Common Elements. However, nothing in the foregoing sentence shall be deemed to invalidate any provision in the Condominium Instruments placing limits on expenditures for capital additions or capital improvements to the Common Elements (other than for purposes of repairing, replacing or restoring existing portions of the Common Elements) by the Board without the prior approval of the Unit Owners.

Section 15. Board's Determination Binding. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of the Declaration, the rules and regulations or By-Laws, the determination thereof by the Board shall, absent manifest error, be final and binding on each and all of such Unit Owners.

## ARTICLE V Officers

Section 1. Officers. The officers of the Association shall be a President, one or more Vice-Presidents, if applicable (the number thereof to be determined by the Board), a Treasurer and a Secretary.

Section 2. Election and Term of Office. The officers of the Association shall be elected annually by the Board at the regular annual meeting of the Board, from among the members of the Board. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently possible. Vacancies may be filled or new offices created and filled at any meeting of the Board. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified. An officer may succeed himself or herself in office. Officers shall serve without compensation.

Section 3. Removal. Any officer elected by the Board may be removed by a majority vote of the members of the Board.

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board for the unexpired portion of the term.

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**Section 5. President.** The President shall be the principal executive officer of the Association and shall in general supervise and control all of the business and affairs of the Association. The President shall preside at all meetings of the members and of the Board. The President may sign, with the Secretary or any other proper officer of the Association authorized by the Board, any deeds, mortgages, contracts, or other instruments which the Board has authorized to be executed and any amendment to the Declaration or Plat as provided in the Act, and, in general, shall perform all duties incident to the office of the President and such other duties as may be prescribed by the Board from time to time.

**Section 6. Vice-President.** In the absence of the President or in the event of inability or refusal to act, the Vice-President, if elected, (or in the event there be more than one Vice-President, the Vice-Presidents in the order of their election) shall perform the duties of the President, and, when so acting, shall have all the power of, and be subject to all the restrictions upon, the President. Any Vice-President shall perform such other duties as from time to time may be assigned by the President or by the Board.

**Section 7. Treasurer.** The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever (except the Treasurer shall not have to give receipts for regular assessment payments), and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article VII of these By-Laws; and in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the President or by the Board.

**Section 8. Secretary.** The Secretary shall keep the minutes of the meetings of the members and of the Board in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; receive all notices on behalf of the Association and, together with the President, execute on behalf of the Association, amendments to Condominium Instruments and other documents as required or permitted by the Declaration, these By-Laws or the Act; be custodian of the records of the Association; and in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the President or by the Board.

## ARTICLE VI

### Powers and Duties of the Association and Board

**Section 1. General Duties Powers Etc., of the Board.** The Board shall exercise for the Association all powers, duties and authority vested in the Association by the Act and the Condominium Instruments, including but not limited to the following:

(a) Operation, care, upkeep, maintenance, replacement and improvement of the Common Elements, and, if not imposed on the Unit Owners, the Limited Common Elements, including payments therefor, including approving payment vouchers therefor;

(b) Preparation, adoption and distribution of the annual budget for the Property;

(c) Levying and spending of assessments;

(d) Collection of assessments from Unit Owners;

(e) Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the Common Elements;



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(f) Obtaining adequate and appropriate kinds of insurance, which may include, if required by the Act, a fidelity bond insuring the Association, the Board and the Unit Owners against loss of funds as a result of the fraudulent or dishonest acts of any employee of the Association or its management agent or of any other person handling the funds of the Association, the Board or the Unit Owners in such amounts as the Board shall deem necessary but not less than 150% of the annual operating expenses of the Association, including operating reserves. The premium for such fidelity bond shall be a Common Expense. Such bond shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. Such bond shall provide that it may not be canceled for non-payment of any premiums or otherwise substantially modified without thirty (30) days prior written notice to all holders of first mortgages of record;

(g) Owning, conveying, encumbering, leasing and otherwise dealing with Units and land conveyed to or purchased by it;

(h) Adoption and amendment of rules and regulations covering the details of the operation and use of the Property, but no such rule shall make improper or illegal any program or activity of the Developer which immediately prior to the adoption or amendment of the rule or regulation was otherwise proper or legal hereunder;

(i) Keeping of detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property;

(j) Having access to each Unit, from time to time, as may be necessary for the maintenance, repair or replacement of any Common Elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit or Units;

(k) Paying real property taxes, special assessments, any other special taxes or charges of the State of Illinois or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon the real property of the Condominium;

(l) Imposing charges for late payments of a Unit Owner's assessments, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, levying reasonable fines for violation of the Declaration, By-Laws, and rules and regulations of the Association;

(m) Assigning its right to future income, including the right to receive assessments;

(n) Recording the dedication of a portion of the Common Elements to a public body for use as, or in connection with, a street or utility where authorized by the Unit Owners under the relevant provisions of the Declaration;

(o) Recording the granting of an easement for the laying, maintenance and repair of cable television or for construction, maintenance and repair of a project against water damage or erosion where authorized by the Unit Owners under the relevant provisions of the Declaration;

(p) Borrowing money at such rates of interest as it may determine; issuing its notes, bonds and other obligations to evidence such borrowing; and securing any of its obligations by making a mortgage or giving a security interest in all or any of its property or income, provided if such mortgage or security interest

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encumbers all or substantially all of the assets of the Association, the approval of the members shall first be obtained pursuant to Article III, Section 7, of these By-Laws.

(q) Making reasonable accommodation of the needs of handicapped Unit Owners, required by the Human Rights Act, in the exercise of its powers with respect to the use of Common Elements or approval of modification in an individual Unit.

(r) Establishing and maintaining a system of master metering of public services and collect payments in connection therewith, subject to the requirements of the Utility Payment Disclosure Act.

(s) To obtain, if available and determined by the Board to be in the best interests of the Association, cable television service for all of the Units of the condominium on a bulk identical service and equal cost per unit basis; and to assess and recover the expense as a common expense and, if so determined by the Board, to assess each and every Unit on the same equal cost per Unit basis.

In the performance of their duties, the officers and directors, whether appointed by the Developer or elected by the members, shall exercise the care required of a fiduciary of the members.

Section 2. Specific Powers and Duties. Anything herein contained to the contrary notwithstanding, the Association shall have the power:

(a) To engage the services of a manager or managing agent, which may be any person, firm or corporation, upon such terms and compensation as the Association deems fit, and to remove such manager or managing agent at any time, provided any agreement with such manager or managing agent shall extend for not more than three years and must be terminable by either party to such agreement without cause and without payment of a termination fee, upon ninety (90) days or less prior written notice;

(b) To engage the services of any persons (including, but not limited to, accountants and attorneys) deemed necessary by the Association at such compensation as is deemed reasonable by the Association, in the operation, repair, maintenance and management of the Property, or in connection with any duty, responsibility or right of the Association and to remove, at any time, any such personnel;

(c) To establish or maintain one or more bank accounts, or functionally similar accounts such as money market fund accounts, for the deposit of any funds paid to, or received by, the Association;

(d) To invest any funds of the Association in certificates of deposit, money market funds, or comparable investments;

(e) Upon authorization of a two-thirds vote by the members of the Board or by affirmative vote of not less than a majority of the Unit Owners at a meeting duly called for such purpose, the Board acting on behalf of all Unit Owners shall have the power to seek relief from or in connection with the assessment or levy of any real property taxes, special assessments or charges of the State of Illinois or any political subdivision thereof or of any lawful taxing or assessing body, and to charge and collect all expenses incurred in connection therewith as Common Expenses.

(f) Nothing herein shall be construed to give the Association authority to conduct an active business for profit on behalf of all the Unit Owners or any of them.

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Section 3. Authorized Expenditures. The Association shall acquire and make arrangements for, and pay for out of the Maintenance Fund, in addition to the manager, managing agent or other personnel above provided for, the following:

(a) Water, waste removal, heating, electricity, telephone and other necessary utility service for the Common Elements and such services to the Units as are not separately metered or charged to the owners thereof.

(b) Such insurance as the Association is required or permitted to obtain as provided in the Declaration.

(c) Landscaping, gardening, snow removal, painting, cleaning, tuck-pointing, maintenance, decorating, repair and replacement of the Common Elements (but not including the Limited Common Elements which the Unit Owners enjoying the use thereof shall paint, clean, decorate, maintain and repair) and such furnishings and equipment for the Common Elements as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Common Elements. Anything in the foregoing to the contrary notwithstanding, the Association shall be responsible for the repair and replacement of all windows and doors from the Common Elements to a Unit (not including balcony doors and interior doors) provided that where the need for repair or replacement is due to the act or omission of a Unit Owner, guest, occupant, family member or pet, the Association shall charge the Unit Owner for the cost of such repair or replacement. The Unit Owner shall have the following rights and responsibilities with respect to other Limited Common Elements appurtenant to such Unit Owner's Unit (subject at all times to the Declaration, these By-Laws and the rules and regulations of the Association): to clean, maintain, repair and decorate the interior surfaces of the floor and ceiling and perimeter walls of the Unit (including by way of illustration, to clean the interior surface of glass forming a portion of the perimeter wall of the Unit), to clean, maintain, repair and decorate the interior surface of all doors leading into and out of the Common Elements, and to clean, maintain and decorate the balcony or balconies, if any, appurtenant to the Unit. Notwithstanding the foregoing, the Association shall be responsible for, and shall, repair and replace windows and window frames forming a portion of the perimeter wall of a Unit, repair and replace (but not clean, decorate or maintain) the balcony appurtenant to the Unit, repair, maintain and replace all door and window locks and hardware, and clean, repair, maintain and replace all chimneys and chimney flues.

(d) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, or assessments which the Association deems necessary or proper for the maintenance and operation of the Property or for the enforcement of any restrictions or provisions contained herein.

(e) Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the Property or any part thereof which may in the opinion of the Association constitute a lien against the Property or against the Common Elements, rather than merely against the interest therein of particular Unit Owners. Where one or more Unit Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Association by reason of said lien or liens including but not limited to, any interest, late charges, reasonable attorneys' fees, costs of collections and the amount of unpaid fines shall be specially assessed to said Unit Owners and shall, until paid by such Unit Owners, constitute a lien on the interest of such Unit Owners in the Property, which lien may be perfected and foreclosed in the manner provided in Section 9 of the Act with respect to liens for failure to pay a share of the Common Expenses and such failure or refusal will entitle the Association to exercise all rights and remedies under the Condominium Instruments or the Act or otherwise, arising from the failure of a Unit Owner to pay the Unit Owner's share of common expenses.

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(f) Landscaping, cleaning, decorating, maintaining and repairing or replacing any Unit or any other portion of the Property which a Unit Owner is obligated to maintain or repair under the terms hereof, if such maintenance or repair is necessary, in the discretion of the Association, to protect the Common Elements, or any other portion of the Property, and the owner of said Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair is delivered by the Association to said Unit Owner; provided that the Association shall levy a special assessment against such Unit for the cost of said maintenance or repair and the amount of such special assessment shall constitute a lien on the interest of such Unit Owner in the Property, which lien may be perfected and foreclosed in the manner provided in Section 9 of the Act with respect to liens for failure to pay a share of the Common Expense. All expenses, charges and costs of the maintenance, repair or replacement of the Common Elements, and any other expenses, charges or costs which the Association may incur or expend pursuant hereto, shall be approved by the Association, and a written memorandum thereof prepared and signed by the treasurer. There shall be no structural alterations, capital additions to, or capital improvements on, the Common Elements (other than for the purposes of repairing, replacing and restoring portions of the Common Elements) requiring an expenditure in excess of Five Thousand Dollars (\$5,000.00) without the prior approval of 66-2/3% of the Unit Owners.

(g) If, due to the act or neglect of a Unit Owner or of a member of its family or household pet or of a guest or other authorized Occupant or visitor of such Unit Owner, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense then such Unit Owner shall pay for such damage and such maintenance, repairs, and replacements as may be determined by the Board, to the extent not covered by insurance, as a special assessment and the amount of such special assessment shall constitute a lien on the interest of such Unit Owner in the Property, which lien may be perfected and foreclosed in the manner provided in Section 9 of the Act with respect to liens for failure to pay a share of the Common Expenses.

As used herein, the term "repairing, replacing and restoring" means to repair, replace or restore deteriorated or damaged portions of the then existing decorating facilities, structural or mechanical components, interior or exterior surfaces or energy systems and equipment to their functional equivalent prior to the deterioration or damage. In the event the replacement of a Common Element may result in an improvement over the quality of such Common Element as originally designed, the Board may provide for such improvement provided, that unless the improvement is mandated by law or is an emergency as defined in item (iv) of Section 18(a)(8) of the Act, if the improvement over and above the functional equivalency of what existed before results in a proposed expenditure in excess of 5% of the annual budget, the Board, upon receipt of a written petition by Unit Owners with 20% of the votes of the Association within fourteen (14) days after the Board's action to approve such expenditure, shall call a special meeting of Unit Owners within thirty (30) days after its receipt of such petition. Unless a majority of the total votes of the Unit Owners are cast at such special meeting to reject the expenditure, the Board's decision to make the expenditure is ratified.

## Section 4. Annual Budget.

(a) Each year on or before November 1st, the Board shall estimate the annual budget of Common Expenses (the "Annual Budget") including: the total amount required for the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Association to be necessary for a reserve for contingencies and replacements, all anticipated assessments and income and each Unit Owner's proposed Common Expense assessment, together with an indication of which portions of the Annual Budget



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are intended for capital expenditures or repairs or payment of real estate taxes. The Board shall deliver a copy of the proposed Annual Budget to each Unit Owner at least thirty (30) days prior to the adoption thereof. The Association shall give Unit Owners notice as provided in Article III, Section 4, of the By-Laws of the meeting of the Board at which the Board proposes to adopt the Annual Budget, or at which any increase or establishment of any assessment, regular or special, is proposed to be adopted.

(b) If an adopted Annual Budget requires assessment against Unit Owners in any year exceeding 115% of the assessments for the preceding year, the Board, upon written petition by Unit Owners representing 33.3% of the votes of the Association may, within 14 days of the Board action, petition and require the Board to call a meeting of the Unit Owners within 30 days of the date of filing of the petition to consider the budget. Unless a majority of the votes of the Unit Owners are cast at the meeting to reject the budget, it is ratified whether or not a quorum is present. In determining whether assessments exceed 115% of similar assessments in the preceding year, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, and budgeted expenses by the Association which are not anticipated to be incurred on a regular or annual basis shall be excluded from the computation.

(c) The Annual Budget shall be assessed to the Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements. Each Unit Owner shall be obligated to pay to the Association, or as it may direct, the portion of the Annual Budget assessed to such owner in equal monthly installments (subject to acceleration as hereinafter provided) on or before January 1st of the ensuing year, and on the 1st day of each and every month of said year. The Association does not have the authority to, and cannot, forbear the payment of assessments by any Unit Owners.

(d) The failure or delay of the Association to prepare or serve the Annual Budget on the Unit Owners shall not constitute a waiver or release in any manner of the Unit Owners' obligation to pay the maintenance and other costs and necessary Reserves, as herein provided, whenever the same shall be determined, and, in the absence of any annual or adjusted budget, the Unit Owners shall continue to pay the monthly assessment charges at the then existing monthly rate established for the previous period (until the monthly assessment payment which is due more than ten (10) days after such new Annual Budget shall have been mailed to the Unit Owners).

(e) Anything herein or in the Declaration to the contrary notwithstanding, the Board may charge to fewer than all Unit Owners such portion of the insurance premium for insurance the Association is required or permitted to obtain which reflects increased charges for coverage on the Units owned by such Unit Owners, on such reasonable basis as the Board shall determine. Such charge shall be considered a common expense with respect to the Units owned by such Unit Owners for all purposes herein and under the Declaration.

(f) All funds collected hereunder shall be held and expended solely for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and except for such special adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners in their relative percentages of ownership interest in the Common Elements.

## Section 5. Annual Accounting.

(a) On or before the 1st day of November of each calendar year commencing on the year of closing of the last unit in the Development, the Association shall supply to all Unit Owners an itemized account of the Common Expenses for the preceding calendar year actually incurred and paid together with an

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indication of which portions of the Annual Budget were for capital expenditures or repairs or payment of real estate taxes and with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net excess or deficiency of income over expenditures plus Reserves. Any amount accumulated in excess of the amount required for actual expenses and Reserves in such preceding year shall be credited according to each Unit Owner's percentage of ownership in the Common Elements to the next monthly installments due from Unit Owners under the current year's Annual Budget, until exhausted, and any net shortage shall be added, according to each Unit Owner's percentage of ownership of the Common Elements, to the installments due in the succeeding six months after the rendering of the accounting.

(b) The Association shall allow any First Mortgagee to examine the books and records of the Association during reasonable business hours and to receive, on request, annual reports and other financial data prepared by the Association or at its direction.

Section 6. Reserves. The Association shall build up and maintain a reasonable Reserve for operations, contingencies and replacement. To establish such Reserve, the Developer shall collect from each Unit Owner upon conveyance of a Unit to such Unit Owner, an amount equal to two (2) months of assessments per Annual Budget as initially established by the Developer for the first year of the Condominium allocable to such Unit and shall remit such amount to the Association. Extraordinary expenditures not originally included in the Annual Budget which may become necessary during the year shall be charged first against such Reserve. In addition, the Association or the Board shall have the right to segregate all or any portion of the Reserve for any specific replacement or contingency upon such conditions as the Association or the Board deems appropriate.

The Annual Budget shall provide for reasonable Reserves for capital expenditures and deferred maintenance for repair or replacement of the Common Elements. To determine the amount of Reserves appropriate for the Association, the Board of Managers shall take into consideration the following: (1) the repair and replacement cost and the estimated useful life of the property the Association is obligated to maintain, including but not limited to structural and mechanical components, surfaces of the Building and Common Elements, and energy systems and equipment; (2) the current and anticipated return on investment of Association funds; (3) any independent professional reserve study the Association may obtain; (4) the financial impact on Unit Owners, and the market value of the Units, of any assessment increase needed to fund Reserves; and (5) the ability of the Association to obtain financing or refinancing. Anything to the contrary in the foregoing notwithstanding, the Association may elect to waive in whole or in part the Reserve requirements of this section by a vote of not less than 100% of the total votes of the Association. In the event the Association elects to waive all or part of the Reserve requirements of this section, such fact must be disclosed after the meeting at which such waiver occurs by the Association in the financial statements of the Association and, highlighted in bold print, in the response to any request of a prospective purchaser prescribed in the Act, and no member of the Board or the managing agent of the Association shall be liable, and no cause of action may be brought for damages against these parties, for the lack or inadequacy of Reserve funds in the Annual Budget. If the Association elects to waive all or part of such Reserve requirements, the Association may by a vote of not less than 100% of the total votes of the Association elect to again be governed by the Reserve requirements of this section.

## Section 7. Special Assessments.

(a) If said Annual Budget proves inadequate for any reason, including non-payment of any Unit Owner's assessment, or any non-recurring Common Expense or any Common Expense not set forth in the Annual Budget as adopted, the Board may at any time levy a further assessment, which shall be assessed to the Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements, and which may be payable in one lump sum or in such installments as the Board may determine. The Board

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shall serve notice of such further assessment on all Unit Owners (as provided in Article III, Section 4, of the By-Laws) by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective and shall be payable at such time or times as determined by the Board, provided, however, that in the event such further assessment with respect to any Unit exceeds the greater of five (5) times such Unit's most recent monthly installment of Common Expenses or \$300.00, such further assessment for all Units shall not be effective until approved by 66-2/3% of the Unit Owners at a meeting of Unit Owners duly called for such purpose. All Unit Owners shall be obligated to pay the further assessment.

(b) The Board may adopt separate assessments for expenditures relating to emergencies or mandated by law without being subject to Unit Owner approval or the provisions of Article VI, Section 1(a). Herein, "emergency" implies an immediate danger to the life, health, safety of property of the Unit Owners or the Association.

## Section 8. Default in Payment.

(a) If a Unit Owner is in default in the monthly payment of the aforesaid charges or assessments for thirty (30) days, the Association may assess a service charge of up to 4% of the balance of which the aforesaid charges and assessments for each month, or part hereof, that said balance, or any part thereof remains unpaid. In addition to any remedies or liens provided by law, if a Unit Owner is in default in the monthly payment of the aforesaid charges or assessments for sixty (60) days, all other monthly payment of charges and assessments due for the calendar year in which such default occurs shall accelerate and become immediately due and payable. The Association may bring suit for and on behalf of itself and as representative of all Unit Owners, to enforce collection thereof or to foreclose the lien therefor as provided by law; and there shall be added to the amount due, the costs of said suit, together with legal interest and reasonable attorneys' fees to be fixed by the Court. In addition, the Association may also take possession of such defaulting Unit Owner's interest in the Property and maintain an action for possession of the Unit in the manner provided by law. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his or her Unit.

(b) Each such assessment, together with interest, court costs, late charges, reasonable attorneys' fees, costs of collections, the amount of any unpaid fines shall also be the personal obligation of the person who was the Unit Owner at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to successors in title or interest unless assumed by them, or required by applicable law.

Section 9. Unit Owner Accounts. Upon ten (10) days' notice to the Association, the payment of a reasonable fee, if any, fixed by the Association, not to exceed Fifteen Dollars (\$15.00), any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

Section 10. Rules and Regulations. The Association may, pursuant to the provisions of Article IV, Section 11 and Article VI, Section 1(h) of these By-Laws, from time to time, adopt or amend such rules and regulations governing the operation, maintenance, beautification and use of the Common Elements and the Units, not inconsistent with the terms of the Declaration, as it sees fit, and the Unit Owners shall conform to, and abide by, such rules and regulations. Written notice of such rules and regulations shall be delivered to all Unit Owners and occupants. A violation of such rules or regulations shall be deemed a violation of the terms of the Declaration.

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**Section 11. Duties.** No Unit Owner may assign, delegate, transfer, surrender or avoid the duties, responsibilities and liabilities of a Unit Owner under the Act, the Condominium Instruments or the rules and regulations of the Association. Any such attempted assignment, delegation, transfer, surrender or avoidance shall be deemed void.

## ARTICLE VII Contracts, Checks, Deposits and Funds

**Section 1. Contracts.** The Board may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these By-Laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances.

**Section 2. Checks, Drafts, Etc.** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer and countersigned by the President of the Association.

**Section 3. Deposits.** All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may elect.

**Section 4. Gifts.** The Board may accept on behalf of the Association any contribution, gift, bequest, or devise for the general purposes or for any special purpose for the Association.

## ARTICLE VIII Books and Records

**Section 1. Maintaining Books and Records.** The Association shall keep and maintain the following records of the Association, or true and complete copies of these records:

- (a) the Association's Declaration, By-Laws and plats of survey, and all amendments of these;
- (b) the rules and regulations of the Association, if any;
- (c) if the Association is incorporated as a corporation, the articles of incorporation of the Association and all amendments to the articles of incorporation;
- (d) minutes of all meetings of the Association and the Board for the immediately preceding 7 years;
- (e) all current policies of insurance of the Association;
- (f) all contracts, leases, and other agreements then in effect to which the Association is a party or under which the Association or the Unit Owners have obligations or liabilities;
- (g) a current listing of the names, addresses, and weighted vote of all members entitled to vote;
- (h) ballots and proxies related to ballots for all matters voted on by the members during the immediately preceding 12 months, including but not limited to the election of the Board; and



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(i) the books and records of account for the Association's current and 10 immediately preceding fiscal years, including but not limited to itemized and detailed records of all receipts and expenditures.

Section 2. Availability for Examination. Availability for Examination. The manager or Board shall maintain the following records of the Association available for examination and copying at convenient hours of weekdays by the Unit Owners or their duly authorized agents or attorneys:

(a) Copies of the recorded Declaration and Bylaws and any amendments, Articles of Incorporation of the Association, if incorporated, annual reports, and any rules and regulations adopted by the Association or the Board; before the first annual meeting of members of the Association, the Developer shall maintain and make available for examination and copying the records set forth in this subsection (a).

(b) Detailed accurate records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred, and copies of all contracts, leases, or other agreements entered into by the Association.

(c) The minutes of all meetings of the Association and the Board, this shall be maintained for seven years.

(d) A record giving the names and addresses of the members entitled to vote.

(e) Ballots and proxies related thereto for all elections to the Board and for any other matters voted on by the Unit Owners, which shall be maintained for not less than one year; provided, however, that in the event the Association adopts rules for secret ballot election as provided in the Act, then, unless directed by court order, only the voting ballot excluding the Unit number shall be subject to inspection and copying.

(f) Such other records of the Association as are available for inspection by members of a not-for-profit corporation pursuant to the General Not for Profit Corporation Act of 1986 of the State of Illinois, as amended.

A reasonable fee covering the direct out-of-pocket cost of providing such information and copying may be charged by the Association or the Board for the cost of providing such information and copying.

Section 3. Limited Availability for Examination. Except as otherwise provided in Section 5 of this Article, any member shall have the right to inspect, examine and make copies of the records described in subdivisions (f), (g), (h) and (i) of Section 1 of this Article, in person or by agent, at any reasonable time or times but only for a proper purpose, at the Association's principal office. In order to exercise this right, a member must submit a written request, to the Board or its authorized agent, stating with particularity the records sought to be examined and a proper purpose for the request. Subject to the provisions of Section 5 of this Article, failure of the Board to make available all records so requested within 30 business days of receipt of the member's written request shall be deemed a denial; provided, however, that if the Board has adopted a secret ballot election process as provided in Section 18 of the Act, then the Board shall not be deemed to have denied a member's request for records described in subdivision (h) of Section 1 of this Article if voting ballots, without identifying Unit Owners, are made available to the requesting member within 30 days of receipt of the member's written request.

Section 4. Retrieval and Reproduction Costs. The actual cost to the Association of retrieving and making requested records available for inspection and examination under this Article shall be charged by the Association to the requesting member. If a member requests copies of records requested under this

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Article, the actual costs to the Association of reproducing the records shall also be charged by the Association to the requesting member.

Section 5. Records Not Available for Inspection. Notwithstanding the provisions of Section 3 of this Article, unless otherwise directed by court order, the Association need not make the following records available for inspection, examination, or copying by the members:

(a) documents relating to appointment, employment, discipline, or dismissal of Association employees;

(b) documents relating to actions pending against or on behalf of the Association or the Board in a court or administrative tribunal;

(c) documents relating to actions threatened against, or likely to be asserted on behalf of, the Association or the Board in a court or administrative tribunal;

(d) documents relating to common expenses or other charges owed by a member other than the requesting member; and

(e) documents provided to the Association in connection with the lease, sale or other transfer of a Unit by a member other than the requesting member.

## ARTICLE IX Fiscal Year

The fiscal year of the Association shall begin on the first day of January and shall end on the last day of December.

## ARTICLE X Waiver of Notice

Whenever any notice whatsoever is required to be given under the provisions of the Condominium Property Act of Illinois, the General Not-for-Profit Corporation Act of Illinois, the provisions of the articles of incorporation or By-Laws of the Association, or the Declaration, a waiver thereof (subject to all the provisions of such instruments) in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

## ARTICLE XI Amendments to By-Laws

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted upon the affirmative vote of 66-2/3% of all of the members at a regular meeting or at any special meeting called for such purpose, by Recording an instrument in writing setting forth such alteration, amendment or repeal, which is signed and acknowledged by the President or Vice-President and the Secretary of the Association and which contains an affidavit by an officer of the Board certifying that the necessary affirmative vote of the members of the Association has been obtained.

## ARTICLE XII Indemnification

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Neither the directors nor the officers of the Association shall be liable to the Association or the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors and officers, except for any acts or omissions found by a court constitute gross negligence or fraud. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he or she is or was a member of the Board or an officer of the Association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith in a manner he or she reasonably believed to be in, or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

The Association may indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he or she is or was a member of the Board or an officer of the Association against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association and except that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Association, unless, and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.

To the extent that a member of the Board or an officer of the Association has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in the foregoing two paragraphs, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

Any indemnification under the first two paragraphs of this Article shall be made by the Association only as authorized in the specific case, upon a determination that indemnification of the member of the board or officer of the Association is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the first two paragraphs of this Article. Such determination shall be made (1) by the Board by a majority vote of a quorum consisting of members of the Board who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by a majority of the members of the Association.

Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding, as authorized by the Board in the specific case, upon receipt of an undertaking by or on behalf of the members of the Board or the officers of the Association to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized in this Article.

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The sums necessary to discharge the obligations of the Association under this Article shall be Common Expenses.

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board, or otherwise, both as to action in his official capacity and as to action in other capacity while holding such office, and shall continue as to a person who has ceased to be a member of the Board or an officer of the Association.

## **ARTICLE XIII** **Construction**

(a) Nothing hereinabove contained shall in any way be construed as altering, amending or modifying the Declaration. Said Declaration and these By-Laws shall always be construed to further the harmonious, beneficial, cooperative and proper use and conduct of the Property. If there is any inconsistency or conflict between these By-Laws and the aforesaid Declaration, the provisions of the Declaration shall control.

(b) All words and terms used herein which are also used in the Declaration shall have the same meaning as provided in the Declaration for such words and terms.

(c) The words "Board of Directors" and "Director" may be substituted for the words "Board" and "Member of the Board," respectively, wherever they appear herein.



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## EXHIBIT "C"

### TO THE DECLARATION OF CONDOMINIUM 2342 WEST FOSTER CONDOMINIUM ASSOCIATION

#### PERCENTAGE OF UNIT PARTICIPATION

Unit No.	Area (sq. ft.)	% Participation
1	2,992	49.55%
2	1,425	23.60%
3	1,621	26.85%
TOTAL	6,038	100%

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## EXHIBIT "D"

**TO THE DECLARATION OF CONDOMINIUM  
2342 WEST FOSTER CONDOMINIUM ASSOCIATION**

**PLAT OF SURVEY**

Property of Cook County Clerk's Office

**UNOFFICIAL COPY**  
**COOK COUNTY CLERK**

# EXHIBIT

**ATTACHED TO DOCUMENT**

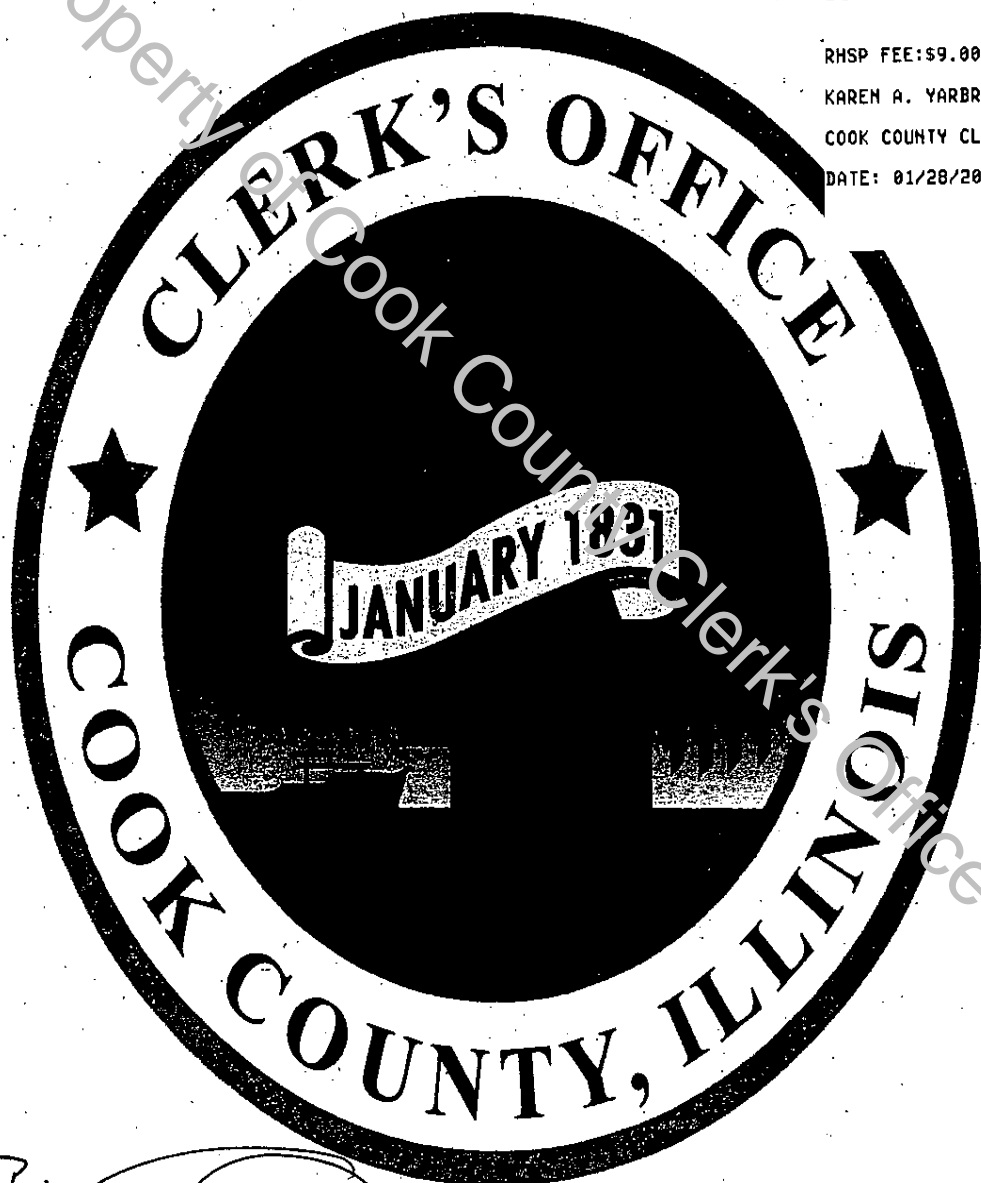
Doc# 2102822001 Fee \$185.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 01/28/2021 09:48 AM PG: 1 OF 68



66 pgs  
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68 total

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**IMAGES STORED IN PLAT INDEX DATABASE**