

# UNOFFICIAL COPY



Doc# 2123119044 Fee \$179.00

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

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 08/19/2021 11:19 AM PG: 1 OF 65

	<p>For use by Recorder's Office only</p>
--	--

## AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OWNERSHIP

FOR

THE 300 WEST GRAND CONDOMINIUM ASSOCIATION

This document prepared by and after recording to be returned to:

**RYAN H. SHPRITZ**  
**DAVID B. SAVITT**  
Kovitz Shifrin Nesbit  
175 North Archer Avenue  
Mundelein, IL 60060 – 847/537-0500

RECORDING FEE \$ 179 -  
DATE 8/19/21 COPIES 6x  
OK BY RUSTO

# UNOFFICIAL COPY

## AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OWNERSHIP FOR THE 300 WEST GRAND CONDOMINIUM ASSOCIATION

### TABLE OF CONTENTS

ARTICLE 1.....	6
ARTICLE 2.....	9
ARTICLE 3.....	9
3.1 Plat.....	9
3.2 Legal Description.....	10
3.3 Subdivision or Combination of Units.....	10
3.4 Separate Mortgages.....	10
3.5 Separate Real Estate Taxes.....	10
3.6 Ownership of the Common Elements.....	10
3.7 Use of the Common Elements.....	10
(a) General.....	10
(b) Use of Recreational Facilities.....	11
(c) Guest Privilege.....	11
3.8 Description of Limited Common Elements.....	11
3.9 Use of Limited Common Elements.....	11
3.10 Storage Areas of the Building.....	11
3.11 Disclaimer of Bailee Liability.....	12
3.12 Assignment of Roof Deck Areas.....	12
3.13 Joint Facilities.....	12
3.14 Rights of Entry.....	12
3.15 Easements Due to Encroachments.....	12
3.16 Utility Easements.....	12
3.17 Master Television Antenna System and Cable Television System.....	13
3.18 Easements Run with Land.....	13
3.19 Uses of Units.....	13
3.20 Use and Occupancy Restrictions.....	14
3.21 Management.....	16

# UNOFFICIAL COPY

ARTICLE 4.....	17
4.1 Maintenance, Repairs and Replacements.....	17
4.2 By the Unit Owner.....	17
4.3 Insurance Coverage.....	18
4.4 Nature of Obligation.....	18
4.5 Negligence of Unit Owner.....	19
4.6 Additions, Alterations or Improvements.....	19
4.7 Combination or Subdivision of Units.....	20
ARTICLE 5.....	20
5.1 Insurance.....	20
5.2 Liability of the Board of Directors.....	25
ARTICLE 6.....	26
6.1 Sufficient Insurance.....	26
6.2 Insufficient Insurance.....	27
6.3 Eminent Domain.....	27
6.4 Repair, Restoration or Reconstruction of the Improvements.....	28
ARTICLE 7.....	28
7.1 Purpose of Assessments.....	28
7.2 Procedure.....	28
7.3 User Charges.....	28
7.4 Non-Use and Abandonment.....	29
ARTICLE 8.....	29
ARTICLE 9.....	29
9.1 Violations.....	29
9.2 Remedies.....	30
9.3 Enforcement by Unit Owners.....	32
ARTICLE 10.....	32
ARTICLE 11.....	34
11.1 Unrestricted Transfers.....	34
11.2 Limits on Leases.....	35
11.3 Financing of Purchase by Association.....	37
11.4 Effect of Non-Compliance.....	37

# UNOFFICIAL COPY

11.5 Miscellaneous.....	37
ARTICLE 12.....	38
ARTICLE 13.....	38
13.1 Manner of Giving Notices.....	38
13.2 Notices of Estate or Representatives.....	38
13.3 Conveyance and Leases.....	38
13.4 No Waivers.....	39
13.5 Change, Modification or Rescission.....	39
13.6 Partial Invalidity.....	39
13.7 Perpetuities and Other Invalidity.....	39
13.8 Liberal Construction.....	40
13.9 Ownership by Land Trustee.....	40
13.10 Resale approval.....	40
13.11 Use of Technology.....	40
EXHIBIT "A".....	43
EXHIBIT B.....	44
EXHIBIT "C".....	45
ARTICLE I.....	45
Section A. Eligibility.....	45
Section B. Succession.....	45
Section C. Annual Meeting.....	45
Section D. Special Meetings.....	45
Section E. Delivery of Notice of Meetings.....	45
Section F. Voting.....	46
Section G. Quorum.....	48
ARTICLE II.....	48
Section A. Number, Election and Term of Office.....	48
Section B. Biographical Information.....	48
Section C. Qualification.....	48
Section D. Vacancies.....	49
Section E. Meetings.....	49
Section F. Removal.....	50

# UNOFFICIAL COPY

Section G. Compensation.....	50
Section H. Quorum.....	50
Section I. Counting of Votes.....	50
Section J. Contract Purchasers .....	50
Section K. Powers and Duties.....	50
ARTICLE III.....	55
Section A. Designation.....	55
Section B. Powers .....	56
Section C. Term of Office.....	56
Section D. Vacancies .....	56
Section E. Compensation .....	56
ARTICLE IV.....	56
Section A. Annual Budget.....	56
Section B. Notification of Meetings Regarding Assessments .....	57
Section C. Assessments .....	57
Section D. Procedures Regarding Regular and Separate Assessments.....	57
Section E. Partial Year or Month .....	58
Section F. Failure to Prepare Annual Budget.....	58
Section G. Annual Report .....	58
Section H. Supplemental Budget .....	58
Section I. Limit on Expenditures.....	58
Section J. Lien .....	59
Section K. Records of the Association .....	59
Section L. Discharge of Liens .....	61
Section M. Holding of Funds.....	61
ARTICLE V.....	61
ARTICLE VI.....	62
ARTICLE VII.....	62
Section A. Liability of The Board of Managers.....	62
EXHIBIT "D" .....	64
EXHIBIT E .....	66
CERTIFICATION AS TO UNIT OWNER APPROVAL .....	66

# UNOFFICIAL COPY

## AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OWNERSHIP

### FOR

## THE 300 WEST GRAND CONDOMINIUM ASSOCIATION

### A Not-For-Profit Corporation

This Amended and Restated Declaration ("Declaration") was adopted pursuant to Section 27(b)(1) of the Illinois Condominium Property Act and approved by no less than two-thirds (2/3) of the Board of Directors of the 300 West Grand Condominium Association ("Association"). This Declaration shall serve the purpose of amending the Declaration of Condominium Ownership for the 300 West Grand Condominium Association ("Declaration") which was recorded as Document No. 98548808 on June 26, 1998 in the Office of the Recorder of Deeds for Cook County, Illinois against the property legally described in Exhibit A attached hereto.

This Amended and Restated Declaration also includes discretionary changes to Article 11, Subsection (2) as well as the addition of a new subsection (22) to Article 3, which pursuant to Article 13, Subsection (5) of the Original Declaration, have been approved by the affirmative vote of two-thirds (2/3) of all the Unit Owners at a meeting called for such purpose, by this written instrument, which is signed and acknowledged by the President of the Board and which contains an affidavit by the Secretary certifying that the necessary affirmative vote of the Unit Owners of the Association has been obtained.

NOW THEREFORE, the Association and its Owners, as the legal title holders of the Parcel, and for the purposes above set forth herein DECLARES AS FOLLOWS:

### ARTICLE 1

#### DEFINITIONS

As used herein, unless the context otherwise requires:

1.1 Acceptable Technological Means: Includes, without limitation, electronic transmission over the Internet or other network, whether by direct connection, intranet, telecopier, electronic mail, and any generally available technology that, by rule of the association, is deemed to provide reasonable security, reliability, identification, and verifiability.

1.2 Act: The Condominium Property Act of the State of Illinois, as amended from time to time.

1.3 Association: The 300 West Grand Condominium Association, a not-for-profit corporation, its successors and assigns.

1.4 Board: The Board of Directors of the Association, which shall constitute the

# UNOFFICIAL COPY

board of managers provided for in the Act.

1.5 **Building**: The structure (or portion of a structure) located on the Parcel and forming part of the Property and containing the Units, as shown by the Plat.

1.6 **By-Laws**: The By-Laws of the Association which are attached as Exhibit "C" hereto, as amended from time to time.

1.7 **Common Elements**: All portions of the Property, except the Units, and including the Limited Common Elements, unless otherwise expressly specified herein. The Common Elements include, without limitation, the Parcel, walls, roofs, foundations, hallways, stairways, exterior windows, sliding glass doors, entrances and exits, security systems, the Recreational Facilities (as defined below), mechanical equipment areas, elevators, elevator lobbies, elevator shafts, mail boxes, pipes, ducts, flues, shafts, electrical wiring and conduits (except pipes, ducts, flues, shafts, electrical wiring and conduits situated entirely within a Unit and serving only such Unit), public utility lines, structural parts of the Building, and all other portions of the Property except the individual Units. Structural columns located within the boundaries of a Unit shall be part of the Common Elements. Any reference to "Common Elements" appearing on the Plat (except references to Limited Common Elements) shall be deemed solely for purposes of general information and shall not be limiting in any way, nor shall any such reference define the Common Elements in any way.

1.8 **Common Expenses**: The proposed or actual expenses affecting the Property and areas adjacent to and/or serving or benefitting the Property (including, without limitation: i) expenses related to maintaining, insuring and paying taxes on parking areas, even if such parking areas are not submitted to the Act; and ii) expenses related to the Association's obligations pursuant to the Operating Declaration), and for which the Association has maintenance, repair or replacement obligations, including reserves, if any, lawfully assessed by the Board. Such expenses shall also include, by way of example and not limitation, the expenses of administration, maintenance, operation, repair, alteration, addition, improvement, and replacement of the Common Elements and other areas and facilities required to be maintained, repaired or replaced (including reserves for such purposes, if any) pursuant to the terms of this Declaration and the Operating Declaration; the cost of water, waste removal, electricity, and other necessary utility services for the Common Elements; and any expenses designated as Common Expenses pursuant to this Declaration, the By-Laws, rules and regulations of the Association, or otherwise lawfully incurred by the Association for the benefit of the Unit Owners.

1.9 **Declaration**: This Declaration of Condominium Ownership and Easements, Restrictions, Covenants and By-Laws and all Exhibits hereto by which the Property is submitted to the provisions of the Act, as amended from time to time.

1.10 **Electronic Transmission**: Means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient and that may be directly reproduced in paper form by the recipient through an automated process.

# UNOFFICIAL COPY

1.11 Limited Common Elements: A portion of the Common Members so designated in this Declaration or on the Plat as being reserved for the use of a certain Unit or Units to the exclusion of other Units and any portion of the Common Elements which by its nature or location is clearly intended to serve exclusively a certain Unit or Units (but less than all of the Units) or the Occupant(s) thereof, shall be deemed a Limited Common Element. To the extent permitted by law, the Board may, by rules and regulations, from time to time designate other portions off the Common Elements as Limited Common Elements appurtenant to a Unit Ownership or Unit Ownerships (including, without limitation, such fixtures and all associated pipes, ducts and wiring designed to provide utility services for the Units as may serve exclusively a single unit or group of contiguous Units, or all of the Units in the Building). The Limited Common Elements shall include, but shall not be limited to, the following: (a) such portions of the perimeter walls, ceilings and floors which define the boundary planes of a Unit as lie outside the boundaries of such Unit; (b) perimeter doors and balconies and their supporting structure that serve exclusively a single Unit; and (c) any system or component part thereof (including, without limitation, structural members, furnaces, fittings, housings, ducts, flues, shafts, electrical wiring and conduits) that serves a Unit exclusively, to the extent that such system or component part is located outside the boundaries of a Unit.

1.12 Majority or Majority of the Unit Owners: Those Unit Owners, without regard to their number, who own more than fifty percent (50%) in the aggregate of the entire undivided ownership interest in the Common Elements. Any specified percentage of Unit Owners means that percentage of Unit Owners who, in the aggregate, own such specified percentage of the entire undivided ownership interest in the Common Elements.

1.13 Occupant: A person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.

1.14 Operating Declaration: The Amended and Restate Declaration of Covenants, Conditions, Restrictions and Easements heretofore recorded in the Office of the Cook County Recorder of Deeds on June 26, 1998, as Document No. 98548807, and as further amended from time to time.

1.15 Parcel: The parcel or tract of real estate, described above in this Declaration and in Exhibit "A" hereto, submitted to the provisions of the Act in accordance with Article 2 hereof.

1.16 Person: A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.17 Plat: The plat or plats of survey of the Parcel and of all Units in the Property submitted to the provisions of the Act, said Plat being attached hereto as Exhibit "B" and made a part hereof and recorded simultaneously with the recording of this Declaration.

1.18 Property: All of the land, property and space described on Exhibit "A" hereto comprising the Parcel; all improvements and structures erected, constructed or contained therein or thereon; all easements, rights and appurtenances belonging thereto, and all furniture,



# UNOFFICIAL COPY

furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, hereby submitted to the Act and subject to the provisions of this Declaration.

1.19 Record or Recorded: To record or recorded in the office of the Recorder of Deeds of Cook County, Illinois.

1.20 Recreational Facilities: A portion of the Common Elements available to and designed for the recreational use, benefit and enjoyment of the Unit Owners and Occupants, subject to the provisions of this Declaration, the By-Laws, and to such rules and regulations as the Board may adopt from time to time.

1.21 Unit: A part of the Property so specified as a Unit and set forth on the Plat. Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plat, provided, however, that no structural components of the Building in which such Unit is located, and no pipes, wires, conduits, ducts, flues, shafts, or public utility lines, situated within such Unit and forming part of any system serving one or more other Units or the Common Elements, other than those parts of the system which serve only a single Unit, shall be deemed to be a part of such Unit. The legal description of each Unit shall refer to such identifying number or symbol therefore and every such description shall be deemed good and sufficient for all purposes, as provided in the Act.

1.22 Unit Owner or Owners: The Person or Persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit and of the undivided interest in the Common Elements appurtenant thereto.

1.23 Unit Ownership: A part of the Property consisting of one Unit and the undivided interest in the Common Elements appurtenant thereto as provided in this Declaration.

## ARTICLE 2

### SUBMISSION OF PROPERTY TO THE ACT

The Property has been submitted and subjected to the provisions of the Act and of this Declaration. The Property is commonly known as "The 300 West Grand Condominium."

## ARTICLE 3

### UNITS AND COMMON ELEMENTS

3.1 Plat: The Plat sets forth the measurements, elevations, locations and other data required by the Act to identify the Parcel and Building and each Unit for which a survey has been completed as of the date this Declaration is recorded, and sets forth the projected location and dimensions for the Units, if any, for which a survey has not been so completed as of the date this Declaration is recorded. Wherever in this Declaration the term "survey," "surveys," "Plat" or Exhibit "B" appears, it shall be deemed to include any amended survey or surveys, as shall be hereafter recorded. In furtherance of the foregoing, a power coupled with an interest is hereby

# UNOFFICIAL COPY

granted to the Board, as attorney-in-fact, to amend the Plat, as described above, without notice to any Unit Owner. Each deed, mortgage or other instrument with respect to a Unit, and the acceptance thereof, shall be deemed a grant of such power to each of said attorneys-in-fact, and acknowledgment of and consent to such power, and shall be deemed to reserve to each of said attorneys-in-fact the power to amend the Plat, as described above.

3.2 Legal Description: The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown on the Plat. Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying number or symbol as shown on the Plat, and every such description shall be deemed good and sufficient for all purposes.

3.3 Subdivision or Combination of Units: Except as provided by the Act or provided elsewhere in this Declaration, no Owner shall, by deed, plat, court order or otherwise, subdivide or in any other manner cause his Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Plat. Units may be combined only as provided by the Act or as provided elsewhere in this Declaration.

3.4 Separate Mortgages: Each Unit Owner shall have the right, subject to the provisions herein, to make a separate mortgage on his respective Unit Ownership. No Unit Owner shall have the right or authority to make or create or cause to be made or created any mortgage or other lien on or affecting the Property or any part thereof, except only to the extent of his respective Unit Ownership.

3.5 Separate Real Estate Taxes: Real estate taxes, special assessments, and any other special taxes or charges of the State of Illinois of any political subdivision thereof, or of any other lawful taxing or assessing body, are to be separately taxed to each Owner for his Unit ownership as provided in the Act. In the event that for any year such taxes are not separately taxed to each Unit Owner, but are taxed on the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective percentage of ownership interest in the Common Elements and in such event such taxes shall be a Common Expense.

3.6 Ownership of the Common Elements: Each Unit Owner shall be entitled to the percentage of ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner as set forth in the schedule attached hereto as Exhibit "D." The aforesaid percentages of ownership interest have been computed and determined in accordance with the Act, and shall remain constant unless hereafter changed in accordance with the provisions of the Act. Said ownership interest in the Common Elements shall be an undivided interest and the Common Elements shall be owned by the unit Owners as tenants in common in accordance with their respective percentages of ownership as set forth in Exhibit "D." Except as provided by the Act, the ownership of each Unit and of the Unit Owner's corresponding percentage of ownership in the Common Elements shall not be separated.

### 3.7 Use of the 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

# UNOFFICIAL COPY

and portions of the Property subject to leases, easements or licenses made by or assigned to the Board 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. Use of Limited Common Elements shall be governed by Section 3.9 hereof. Such rights to use and possess the Common Elements, including the Limited Common Elements, shall be subject to and be governed by the provisions of the Act and this Declaration. In addition, the Association shall have the authority to lease, grant licenses or concessions, or grant easements with respect to parts of the Common Elements (other than the Limited Common Elements), subject to the provisions of this Declaration. All income derived by the Association from leases, licenses, concessions or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe. Smoking is prohibited in the Common Elements.

(b) Use of Recreational Facilities: The Recreational Facilities are part of the Common Elements and may be used by the Unit Owners and Occupants subject to rules and regulations adopted or prescribed by the Board from time to time.

(c) Guest Privilege: The rights described in Subsections (a) and (b) above shall extend to the Unit Owners and Occupants, members of the immediate family, guests, visitors, agents, servants, invitees, customers and licensees of the Unit Owner, subject to rules and regulations adopted or prescribed by the Board from time to time.

3.8 Description of Limited Common Elements: The Limited Common Elements are such parts of the Common Elements serving exclusively a single Unit or Units as an inseparable appurtenance thereto, and designated as such in this Declaration, on the Plat or, to the extent permitted by law, by the Board through rules and regulations, 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 appertaining to, or designated or reserved for or for the use of, or serving any Unit (alone or in conjunction with other Units) are hereinafter from time to time referred to as the Limited Common Elements of such Unit.

3.9 Use of Limited Common Elements: Each Unit Owner and Occupant shall have the right to (a) the exclusive use and possession of the Limited Common Elements serving exclusively the Unit of such Unit Owner or Occupant, which right shall be appurtenant to and shall run with title to such Unit, and shall not be separated from such Unit, and (b) the use and possession of the Limited Common Elements serving the Unit or such Unit Owner or Occupant 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 or Occupant of any such other Unit to which such Limited Common Elements shall respectively appertain.

3.10 Storage Areas of the Building: Each Unit Owner shall be responsible for his personal property located in the storage areas, if any, of the Common Elements. The exclusive use and possession of the storage lockers in such areas shall be assigned to the respective Unit Owners subject to such rules and regulations as the Board may prescribe. The provisions of this

# UNOFFICIAL COPY

section shall apply to storage and assignment of storage in the event that the Association obtains rights to storage areas that are not within the Condominium.

3.11 Disclaimer of Bailee Liability: Notwithstanding anything to contrary contained in this Declaration, neither the Board, the Association, any Unit Owner, shall be considered a bailee of any personal property stored in the Common Elements or other storage areas (whether within or outside of the Condominium), and none shall be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence.

3.12 Assignment of Roof Deck Areas: Certain roof decks to be designated in the Plat (the "Deck Areas"), are limited Common Elements.

3.13 Joint Facilities: To the extent that equipment, facilities and fixtures within any Unit or Units shall be connected to similar equipment, facilities or fixtures affecting or serving other Units or Common Elements, the use thereof by the individual. Unit Owners shall be subject to rules and regulations adopted or prescribed by the Board.

3.14 Rights of Entry: The Board or its agents, upon reasonable notice or, in the case of an emergency, without notice, shall have the right to enter any Unit or any of the Limited Common Elements when necessary in connection with any maintenance, repairs or construction for which the Board is responsible or permitted to do. Such entry shall be made with as little inconvenience to the Unit Owners as practicable, and any damage caused thereby shall be repaired by the Board, as a Common Expense.

3.15 Easements Due to Encroachments: In the event that (i) by reason of the construction, settlement or shifting of the Building, any part of the Common Elements encroaches or shall thereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall thereafter encroach upon any part of the Common Elements or any other Unit, or (ii) by reason of the design or construction of utility and ventilation systems, any pipes, ducts conduits serving more than one Unit encroach or shall thereafter encroach upon any part of any Unit, then valid easements for the maintenance of such encroachment and for use of the Common Elements are hereby established and shall exist for the benefit of such Unit and the Common Elements, as the case may be, so long as all or any part of the Building shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Elements be created in favor of any Unit Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Property by the other Unit Owners or if it occurred due to the willful conduct of any Unit Owner.

3.16 Utility Easements: Subject to the Operating Declaration, all suppliers of utilities serving the Property are hereby granted the right to install, lay, construct, operate, maintain, renew, repair, or replace, conduits, cables, pipes, and wires, and other equipment into, over, under, along, and on any portion of the Common Elements for the purposes of providing the Property with utility services, together with the reasonable right of ingress to and egress from the Property for said purpose. The Board or Association may hereafter grant other or additional easements for utility purposes and for other purposes including as may be required to construct, keep, and maintain improvements upon the Common Elements, for the benefit of the Property,

# UNOFFICIAL COPY

over, under, along, and on any portion of said Common Elements, and each Unit Owner hereby grants the Board or Association an irrevocable power of attorney to execute, acknowledge, and record for and in the name of such Unit Owner, such instruments as may be necessary to effectuate the foregoing. Easements are also hereby declared and granted to install, lay, operate, maintain, repair and replace any pipes, wires, ducts, flues, shafts, conduits, public utility lines, components of the mechanical (including, but not limited to heating and air conditioning) communications systems, if any, or structural components, which may run through the walls of a Unit, whether or not such walls lie in whole or in part within the Unit boundaries.

3.17 Master Television Antenna System and Cable Television System: Each Unit has been equipped with at least one outlet that can be activated for connection to the master television antenna system or the cable television system serving the Building, if any, which outlet and systems are integral parts of the Common Elements. Additional outlets for connection to the master television antenna system or the cable television system, if any, are obtainable only from the Association and may be installed only by the firm or individual authorized by the Board to make such installation, with the prior approval of the Board and the payment of any required additional fees. Unit Owners and Occupants are prohibited from making any modifications to or tampering with said outlet and from making any connections to the master television antenna system or the cable television system, if any, and the Board may charge any Unit Owner with the cost of locating and removing any unauthorized connections thereto and of repairing any modifications thereto.

3.18 Easements Run with Land: All easements and rights described herein are easements appurtenant running with the land, and, so long as the Property is subject to the provisions of this Declaration, shall remain in full force and effect and inure to the benefit of and be binding on the Board, its successors and assigns, and any Unit Owner, purchaser, mortgagee or other person having an interest in the Property, or any part or portion thereof without any need for further reference thereto in any deed, mortgage or other evidence of obligation.

3.19 Uses of Units: No Unit shall be used other than for (a) use as a residence and (b) Limited Commercial Use (as hereinafter defined). For purposes hereof, Limited Commercial Use shall mean the use of a Unit solely for general office purposes subject to the following limitations:

- (a) No retail use of any kind (except for the display and sale of art, which shall be subject to the other provisions of this Declaration), including without limitation, sales of any merchandise at retail, shall be permitted;
- (b) No manufacturing activities of any kind shall be permitted;
- (c) No medical procedures may be conducted in a Unit other than psychological and psychiatric counselling;
- (d) No mail order businesses shall be conducted from a Unit;
- (e) Each Unit used for commercial purposes must also be used as at least an



# UNOFFICIAL COPY

alternative residence by the Unit Owner;

(f) No commercial use shall be permitted that will result in an increase in insurance premiums or in cancellation of insurance on the Building or the contents thereof or which would be in violation of any law;

(g) No commercial use shall be permitted that would unreasonably increase traffic through the corridors of the Building;

(h) No transient use of Units for commercial purposes such as hotel use shall be permitted, provided, however, that i) a Unit Owner that is a corporation, partnership or other business entity may allow its employees, shareholders, directors or partners to occupy the Unit on a transient basis for residential purposes so long as no rent or use fee is charged for such occupancy, and ii) Units may be used and leased as furnished corporate suites.

(i) No unreasonable or excessive noise shall be permitted in connection with any commercial use of a Unit; and

(j) Limited Commercial Use shall be subject to such reasonable rules and regulations and shall be promulgated by the Board for the purposes of insuring the security of the Building and preventing any nuisances or disturbances to Unit Owners from such Limited Commercial Use;

3.20 Use and Occupancy Restrictions: In addition to any other restrictions and covenants as to the use of the Property provided or in this Declaration, the Property shall be used as follows:

(a) Each Unit Owner shall maintain his Unit and any Limited Common Elements appurtenant thereto, in good condition and in good order and repair, at his own expense, and shall not do or allow anything to be done which may increase the cost or cause the cancellation of insurance on other Units or on the Common Elements or which violates any law, statute or ordinance.

(b) No unlawful, noxious or offensive activities shall be carried on in any Unit or elsewhere on the Property, nor shall anything be done therein or thereon which shall constitute a nuisance or which shall, in the judgment of the Board, cause unreasonable noise or disturbance to others.

(c) No Unit Owner or Occupant shall display, hang, store or use any clothing, sheets, blankets, laundry or other articles outside his Unit, or which may be visible from the outside of his Unit (other than draperies, curtains or shades of a customary nature and appearance, subject to the rules and regulations of the Board), or paint or decorate or adorn the outside of his Unit, or install outside his Unit any canopy or awning, or outside radio or television antenna, or other equipment, fixtures or items of any kind, without the prior written permission of the Board. The side of the draperies, curtains or, shades facing the outside shall be white.

# UNOFFICIAL COPY

(d) No animals shall be raised, bred or kept in any Unit or in the Common Elements, except for dogs, cats, fish, small birds and gerbils and hamsters, and similarly sized caged animals of a type customarily kept as household pets in multi-unit, high-rise condominium projects, owned as household pets by Unit Owners, subject to the rules and regulations of the Board, provided that they are not kept, bred or maintained for a commercial purpose. If any pet, because of noise, damage to the Property or complaints of other Unit Owners, becomes an annoyance, the Board may request the Unit Owner to, and the Unit Owner shall at his own expense, remove such pet from the Property within three (3) days of notice.

(e) Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in a clean and sanitary manner as prescribed from time to time in rules and regulations of the Board.

(f) Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Building or which would structurally change the Building. No Unit Owner shall overload the electric wiring in any Unit or the Common Elements, or operate machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others. No Unit Owner shall overload the floors of any Unit. The use of water-beds and similar furnishings and equipment which may cause floor overloads shall be subject to Board approval.

(g) In order to enhance the sound conditioning of the Building, the floor covering for all occupied Units shall meet the minimum standard as may be specified by rules and regulations of the Board and Section 4.2(b) of the Declaration.

(h) There shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Elements except subject to reasonable rules and regulations of the Board.

(i) Except as provided in Section 3.19 of the Declaration, no industry, business occupation or profession of any kind, commercial, religious, educational or otherwise, designed for profit, altruism, exploration or otherwise shall be conducted, maintained or permitted in any Unit.

(j) No vehicles, including by way of example and not limitation, trucks, campers, recreational vehicles, vans or boats, shall be parked anywhere on the Common Elements.

(k) No alterations shall be made to the exterior of the Building without the prior written consent of the Board and the color of any and all window furnishings that is exposed to the outside shall be white.

(l) Each Unit Owner shall furnish the Board with the name and mailing address of any lender holding a mortgage secured by such Unit Owner's Unit Ownership.

(m) No use of a Unit shall be conducted, maintained or permitted to the extent such use is in violation of the uses permitted hereunder or under any applicable laws, statutes, codes,

# UNOFFICIAL COPY

regulations or ordinances governing the Property from time to time (including, without limitation, the relevant provisions of the City of Chicago zoning ordinance).

(n) The provisions of the Act, the Declaration and rules and regulations that relate to the use of individual Units and Common Elements shall be applicable to any person leasing a Unit Ownership and shall be deemed to be incorporated in any lease of a Unit. The Association may prohibit a tenant from occupying a Unit until the Unit Owner complies with the leasing requirements prescribed in Section 11.2 of the Declaration or as may be adopted by the Association. The Board may 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 breach by a tenant of any covenants, rules, regulations or By-Laws, without excluding any other.

(o) Each Unit Owner must obtain insurance to cover the Owner's personal possessions, the Owner's personal liability and the Owner's responsibilities under this Declaration.

(p) Each Unit Owner shall deposit with the Board duplicate keys for all locks required for entry to their Unit.

(q) Notwithstanding any provision in the Declaration, By-Laws, rules, regulations, or agreements or other instruments of the Association or the Board's construction of any of those instruments, the Board may not prohibit the display of the American flag or a military flag, or both, on or within the facilities of a Unit Owner or on the immediately adjacent exterior of the building in which the Unit of a Unit Owner is located. The Board may adopt reasonable rules and regulations, consistent with Sections 4 through 10 of Chapter 1 of Title 4 of the United States Code, regarding the placement and manner of display of the American flag and the Board may adopt reasonable rules and regulations regarding the placement and manner of display of a military flag. The Board may not prohibit the installation of a flagpole for the display of the American flag or a military flag, or both, on or within the facilities of a Unit Owner or on the immediately adjacent exterior of the building in which the Unit of a Unit Owner is located, but the Board may adopt reasonable rules and regulations regarding the location and size of flagpoles. As used herein, "American flag" means the flag of the United States (as defined in Section 1 of Chapter 1 of Title 4 of the United States Code and the Executive Orders entered in connection with that Section) made of fabric, cloth, or paper displayed from a staff or flagpole or in a window, but "American flag" does not include a depiction or emblem of the American flag made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component. "Military flag" means a flag of any branch of the United States armed forces or the Illinois National Guard made of fabric, cloth, or paper displayed from a staff or flagpole or in a window, but "military flag" does not include a depiction or emblem of a military flag made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.

3.21 Management: The Property at all times shall be managed by a professional management company.



# UNOFFICIAL COPY

3.22 Smoking. (a) Tobacco Restriction: Smoking of tobacco (e.g., cigarettes, cigars, pipes), and/or the use of electronic cigarettes, cigars, pipes, e-vaporizers, and/or any electronic nicotine delivery system, is prohibited on any portion of the Property, including the Common Elements, Limited Common Elements, and the Units.

(b) Cannabis Restriction: (i) Smoking of cannabis (as cannabis is defined in the Cannabis Regulation and Tax Act) and/or the use of electronic cigarettes, cigars, pipes, e-vaporizers, and/or any electronic cannabis delivery system is prohibited on any portion of the Property, including the Common Elements, Limited Common Elements, and the Units. (ii) The consumption of cannabis by any means other than smoking is prohibited on the Common Elements; provided that notwithstanding the foregoing, the lawful consumption of cannabis by any means other than smoking is permitted on the Limited Common Elements. (iii) The lawful consumption of cannabis by any means other than smoking is permitted in the Units.

(c) Smoking: Smoking, as used in this Section means the inhalation of smoke caused by the combustion of tobacco or cannabis as applicable.

## ARTICLE 4

### MAINTENANCE, REPAIRS AND REPLACEMENTS OF UNITS

4.1 Maintenance, Repairs and Replacements: The Association, at its expense, shall be responsible for the maintenance, repair, and replacement of those portions, if any, of each Unit which contribute to the support of the Building excluding, however, interior doors and interior surfaces of walls, ceilings and floors. In addition, the Association shall maintain, repair, and replace all pipes, wires, conduits, ducts, flues, shafts, 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 foreclosing which may be located at or beyond the wall outlets, or which may be the responsibility of an individual Unit Owner under Section 4.2 hereof, 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. The Association shall also be responsible for insuring, maintaining, repairing and paying taxes on off-site parking areas utilized in whole or in part by Unit Owners, pursuant to and in accordance with contractual terms.

4.2 By the Unit Owner: Except as otherwise provided in Section 4.1 hereof or in Section 4.3 hereof, each Unit Owner shall furnish and be responsible for, at his own expense:

(a) All of the maintenance, repairs and replacements within the Unit Owner's Unit, all interior doors, and all internal installations of such Unit such as refrigerators, ranges, and other kitchen appliances, electrical, plumbing fixtures and heating and air conditioning Units, and any portion of any other utility service facilities located within the Unit; provided, however, that such maintenance, repairs and replacements as may be required for the bringing of water and electricity to the Units, shall be furnished by the Board as part of the Common Expenses.

# UNOFFICIAL COPY

(b) Decorating within Units, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps, other furnishings and interior decorating is the responsibility of each Unit Owner. 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 or their Unit, and shall maintain such portions in good condition at such Owner's sole expense. Each Unit Owner, who shall elect to install (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 underlayment system consisting of ¼ inch thick cork sheets or the "Kerafonic" sound control mortar underlayment system (manufactured by Mapei Corporation) or such other system substantially comparable thereto as the Board may approve in writing as to prevent the transmission of noise to another 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 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 reasonable rules and regulations adopted or prescribed by the Board.

(c) Repairs, maintenance and replacement of door and window hardware and interior surfaces of perimeter walls and doors with respect to which each Unit Owner is entitled to the exclusive use, shall be the responsibility of the Unit Owner. At the discretion of the Board, the Board may perform, or cause to be performed, such maintenance, repairs, and replacements of the Limited Common Elements and the cost thereof shall be assessed in whole or in part to the Unit Owners benefitted thereby, and further, at the discretion of the Board, the Board may direct such Unit Owners, in the name and for the account of such Unit Owners, to arrange for such maintenance, repairs, and replacements, to pay the cost thereof and to procure and deliver to the Board such lien waivers and contractor's or subcontractor's sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom.

4.3 Insurance Coverage: In the event that any repair or replacement to the Common Elements is made necessary by reason of any act or occurrence for which insurance is maintained by the Board and for which insurance proceeds are available, the Association, at its expense shall be responsible for the repair or replacement of such Common Elements.

4.4 Nature of Obligation: Nothing herein contained 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 gross 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 hereinabove to the contrary, no Unit Owner shall have a claim against the Board or Association for any work ordinarily the responsibility of

# UNOFFICIAL COPY

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.

4.5 Negligence of Unit Owner: If, due to the willful misconduct or negligent act or omission of a Unit Owner, Occupant or of a member of their family or household pet or of a guest or other authorized 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 a Common Expense, such Unit Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Board.

4.6 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 benefitted thereby) additions, alterations, or improvements to the Common Elements.

(b) Except as otherwise expressly 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 wall or partition configuration, ceiling, perimeter doors or windows, floor load or otherwise affects the structure of the Unit or increases the cost of maintenance or repair of the Common Elements or insurance required to be carried by the Board hereunder, without the prior written consent of the Board. No additions, alterations or improvements may be made to the Common Elements or Units in violation of the Operating Declaration. Any addition, alteration or improvement of the Unit by the Unit Owner which shall affect the structure of the Unit or the Common Elements shall be made in conformance with structural or engineering drawings prepared or reviewed and approved by an architectural or engineering firm selected by the Board. The cost of such drawings or review and approval shall be paid by the Unit Owner. 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 written agreement, in form and substance satisfactory to the Board, either 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 to pay the Association from time to time the additional cost of maintenance or insurance resulting from the addition, alteration, or improvement and to indemnify the Board, Association and managing agent against any damages, loss or liability in connection with such addition, alteration or improvement and containing such other terms and conditions as the Board shall reasonably require. 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, which actions shall not be exclusive of the remedies available to the Board under Section 9.1 hereof;

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

(ii) If the Unit Owner refuses or fails to perform properly the work the Unit

# UNOFFICIAL COPY

Owner agreed to perform, 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 4.6.

4.7 Combination or Subdivision of Units: Any Unit Owner or Unit Owners may, at their expense, subdivide or combine Units owned by them and locate or relocate Common Elements affected or required thereby on written application to the Board approved by a majority of the members of the Board. Such application shall contain the proposed reallocation to the new Units of the percentage ownership the Common Elements and whether the Limited Common Elements, if any, previously assigned to the Unit or Units to be subdivided or combined should be assigned to each new Unit or to fewer than all the new Units created, and requesting, if desired, in the event of the combination of Units, that the new Unit be granted the exclusive right to use as a Limited Common Element a portion of the Common Elements within the Building. Such request to the Board shall be accompanied by an amendment to the Declaration and the Plat prepared in accordance with the relevant provisions of the Act. In the event of a combination of Units, such amendment may grant the Unit Owner of the new Unit the exclusive right to use, as a Limited Common Element, a portion of the Common Elements within the Property adjacent to the new Unit. The subdivision and combination of Units shall be effective upon recording of such amendment to this Declaration, executed by the Owners of the Units involved, and the Plat. In the event of the combination of Units, if permitted by law, the Unit Owner of the new Unit may remove one or more entrance doors from the new Unit; provided, however, that (a) prior to doing so, the Unit Owner shall deliver to the Board for review and approval plans for such removal, (b) following such removal the wall of the Common Element corridor in which such door was located shall be restored to the same condition as the rest of corridor, including installation of identical wall coverings, if any, and (c) such work shall be done at the Unit Owner's expense free of any liens or claims for lien in conformity with all applicable laws, statutes, codes and ordinances and to the satisfaction of the Board.

## ARTICLE 5

### INSURANCE

#### 5.1 Insurance.

(a) The Board shall have the authority to and shall obtain insurance for the Property as follows, and in addition, the Board shall comply with all insurance requirements under the Operating Declaration:

(i) Property Insurance. No policy of insurance shall be issued or delivered to the Association, and no policy of insurance issued to the Association shall be renewed, unless the insurance coverage under the policy includes property insurance (i) on the Common Elements and the Units, including the Limited Common Elements and except as otherwise determined by the Board, the bare walls, floors, and ceilings of the Unit, (ii) providing coverage for special

# UNOFFICIAL COPY

form causes of loss, and (iii) providing coverage, at the time the insurance is purchased and at each renewal date, in a total amount of not less than the full insurable replacement cost of the insured property, less deductible, but including coverage sufficient to rebuild the insured property in compliance with building code requirements subsequent to an insured loss, including: the Coverage B, demolition costs; and Coverage C, increased cost of construction coverage. The combined total of Coverage B and Coverage C shall be no less than ten percent (10%) of each insured building value or \$500,000 whichever is less. The insurance maintained under this subsection must include the Units, the Limited Common Elements except as otherwise determined by the Board, and the Common Elements. The insurance need not cover improvements and betterments to the Units installed by Unit Owners, but if improvements and betterments are covered, any increased cost may be assessed by the Association against the Units affected. Common Elements include fixtures located within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual Units initially installed by the developer. Common Elements exclude floor, wall, and ceiling coverings. "Improvements and betterments" means all decorating, fixtures, and furnishings installed or added to and located within the boundaries of the Unit, including electrical fixtures, appliances, air conditioning and heating equipment, water heaters, built-in cabinets installed by Unit Owners, or any other additions, alterations, or upgrades installed or purchased by any Unit Owner.

(ii) **Boiler and Machinery.** Insurance on a comprehensive basis covering all Building equipment, machinery and apparatus consisting of, but not limited to, boilers, heating apparatus, fired and unfired pressure vessels, air conditioning equipment (excluding air conditioning in Units), miscellaneous electrical apparatus, and their appurtenant equipment on a repair or replacement basis. Limits of liability shall be determined by the Board, but such limit shall also be no less than Five Hundred Thousand Dollars (\$500,000.00) per accident;

(iii) **General Liability Insurance.** No policy of insurance shall be issued or delivered to the Association, and no policy of insurance issued to the Association shall be renewed, unless the insurance coverage under the policy includes commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the property in a minimum amount of \$1,000,000, or a greater amount deemed sufficient in the judgment of the Board, insuring the Board, the Association, the management agent, and their respective employees and agents and all persons acting as agents. The Unit Owners must be included as additional insured parties but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements. The insurance must cover claims of one or more insured parties against other insured parties.

(iv) **Umbrella Liability Insurance** in excess of the required Commercial General Liability and Employer Liability policies in an amount deemed desirable by the Board, but in no event less than Three Million Dollar (\$3,000,000.00) with respect to each occurrence;

(v) **Worker's Compensation and Employer Liability** (minimum \$100,000) as necessary to comply with applicable laws;

(vi) The Association shall obtain and maintain a fidelity bond covering persons, including the managing agent and its employees who control or disburse funds of the



# UNOFFICIAL COPY

Association, for the maximum amount of coverage available to protect funds in the custody or control of the Association, plus the Association reserve fund. 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. The fidelity bond must be in the full amount of Association funds and reserves in the custody of the Association or the management company;

(vii) **Directors and Officer's Coverage.** The Board must obtain directors and officer's liability coverage at a level deemed reasonable by the Board, if not otherwise established by this Declaration or By-Laws. Directors and officer's liability coverage must extend to all contracts and other actions taken by the Board in their official capacity as directors and officer's, but this coverage shall exclude actions for which the directors are not entitled to indemnification under the General Not For Profit Corporation Act of 1986 or this Declaration and By-Laws of the Association. The coverage required by this subsection shall include, but not be limited to, coverage of defense of non-monetary actions; defense of breach of contract; and defense of decisions related to the placement or adequacy of insurance. The coverage required by this subsection shall include as an insured: past, present, and future Board members while acting in their capacity as members of the Board of Directors; the managing agent; and employees of the Board of Directors and the managing agent.

(viii) **Property and general liability insurance policies** required to be carried by the Association must include each of the following provisions:

(A) Each Unit Owner and secured party is an insured person under the policy with respect to liability arising out of the Unit Owner's interest in the Common Elements or membership in the Association;

(B) The insurer waives its right to subrogation under the policy against any Unit Owner of the condominium or members of the Unit Owner's household and against the Association and members of the Board;

(C) The Unit Owner waives his or her right to subrogation under the Association policy against the Association and the Board.

(ix) Such other insurance, which may include, without limitation, any or all of the following, in such amounts as the Board shall deem desirable: Directors and Officer's Liability Insurance; and Non-Owned and Hired Automobile Liability coverage.

The premium for the above described insurance and bond, except as otherwise provided in this Section 5.1, shall be Common Expenses.

(b) All insurance provided for in this Section 5.1 shall be effected under valid and enforceable policies issued by insurance companies authorized and licensed to transact business in the State of Illinois and holding a current: Policyholder's Alphabetic and Financial Size Category Rating of not less than A/VII according to Best's Insurance Reports or a substantially

# UNOFFICIAL COPY

equivalent rating from a nationally-recognized insurance rating service. All such policies shall provide a minimum of thirty (30) days advance notice of cancellation in writing to the insured thereunder unless such cancellation is for non-payment of premium in which case ten-day (10) advance written notice shall be sufficient.

(c) All policies of insurance of the character described in clauses (i) and (ii) of Subsection (a) of this Section 5.1: (i) shall name as insured: the Board, as trustees for the Unit Owners, in the percentages established in Exhibit "D" to this Declaration; and shall also name as an assured such persons as may be required by the Insurance Trustee described in Subsection 5.1(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 carried 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 Units; (iii) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefor, 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. Notwithstanding the issuance of standard mortgage clause endorsements under the policies of insurance of the character described in clauses (i) and (ii) of Subsection (a) of this Section 5.1, 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 Operating Declaration.

(d) All policies of insurance of the character described in clauses (iii), (iv), (v), (vi), (vii) and (ix) of Subsection (a) of this Section 5.1 shall name as insureds the Association, the Board, its managing agent, and the other agents and employees of such Association, Board and managing agent and shall also provide coverage for each Unit Owner (but as to the insurance described in Subsection 5.1(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 Subsection (a) of this Section 5.1 shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, members of the Board, the managing agent, their respective employees and agents, and the Unit Owners.

(e) The Association, for the benefit of the Unit Owners and the mortgagee of each Unit, shall pay the premiums or obtain a binder on the policies of insurance described in Subsection (a) of this Section 5.1 at least thirty (30) days prior to the expiration date of the respective policies, and upon written request therefor, 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 Subsection (a) of this Section 5.1 must be adjusted by and with the Association. The insurance proceeds for that loss must be payable to the Association, or to an Insurance Trustee designated by the Association for that purpose. The Insurance Trustee or the Association must hold any insurance proceeds in trust for Unit Owners and secured parties as their interests

# UNOFFICIAL COPY

may appear. The proceeds must be disbursed first for the repair or restoration of the damaged Common Elements, the bare walls, ceilings, and floors of the Units, and then to any improvements and betterments the Association may insure. Unit Owners are not entitled to receive any portion of the proceeds unless there is a surplus of proceeds after the Common Elements and Units have been completely repaired or restored or the Association has been terminated as trustee:

(i) To the Board, as trustee for 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 Fifty Thousand Dollars (\$50,000.00) 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 in which 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, materialmen's, and other similar liens; or,

(ii) In the case of any one loss exceeding Fifty Thousand Dollars (\$50,000.00) in the aggregate, then the insurance proceeds shall be paid to such entity as may be designated as "Depository" under the Operating Declaration or, if no such entity has been designated, to Chicago Title and Trust Company, which corporation has been designated 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 Subsection (ii). If such entity (or its successor) 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 in which 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 the 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 and the Operating Declaration with respect to the collection and disbursement of proceeds of insurance by the Insurance Trustee, subject to the provisions of the Operating Declaration.

(g) Each Unit Owner shall be responsible for, and must obtain (i) physical damage insurance on the personal property in his Unit and anywhere on the Property, his automobiles, and any additions, alterations and improvements to his Unit (whether installed by such Unit Owner, the developer or any prior Unit Owner); (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



# UNOFFICIAL COPY

provided. For the purposes of Sections 5.1(g) and 5.1(h), “additions, alterations and improvements” shall mean any property (excluding personal property readily removable without damage to the Unit) attached to the Unit, including without limitation carpeting, flooring, wall covering, paint and paneling. The Association shall not be responsible for repairing or replacing a Unit Owner’s personal property.

(h) The Board shall not be responsible for obtaining physical damage insurance on any additions, alterations and improvements to a Unit or any personal property of a Unit Owner or any other insurance for which a Unit Owner is responsible pursuant to Section 5.1(g).

(i) Each Unit Owner hereby waives and releases any and all claims which he may have against the Association, its officers, members of the Board, 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 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 5.1(g).

(j) Insurance required by Section 5.1(a) shall be endorsed to include substantially the following clause:

“This insurance shall not be prejudiced (i) by any act or neglect of any Unit Owner or occupant of the Building when such act or neglect is not within the control of the named insured (or Unit Owners collectively), or (ii) by failure of the named insured (or Unit Owners collectively) to comply with any warranty or condition with regard to any portion of the Building over which the named insured (or Unit Owners collectively) has no control.”

(k) The Board shall comply with the provisions of the Operating Declaration concerning insurance, which provisions shall have priority over the provisions hereof to the extent inconsistent with this Declaration.

(l) If at the time of a loss under the Association’s policy there is other insurance in the name of a Unit Owner covering the same property covered by the policy, the Association’s policy is primary insurance.

(m) The Board of the Association 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 Owners who caused the damage or from whose Units the damage or cause of loss originated, or (iii) require the Unit Owners of the Units affected to pay the deductible amount.

5.2 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 as such Board members and officers except for any acts or omissions found by a court to constitute gross negligence or fraud. The Unit

# UNOFFICIAL COPY

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 acts of or contracts made by 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 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 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 acts of any contract made by the Board or officers of the Association, or out of the aforesaid indemnity in favor of the members of the Board and of officers of the Association, 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. When the Board or the managing agent, as the case may be, enters into an agreement and are acting as agents for the Unit Owners, neither the Board nor the managing agent shall have 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. Absence of such provision in any such agreement shall not alter the agency relationship in any way from that as described in the immediately preceding sentence in this Section 5.2.

## ARTICLE 6

### DAMAGE, DESTRUCTION, CONDEMNATION AND RESTORATION OF BUILDING

6.1 Sufficient Insurance: In the event the improvements forming a part of the Property, or any portion thereof, including any Units, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage, and payable by reason thereof, plus capital, reserves, shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken and the insurance proceeds and, if necessary, the reserve for replacements, shall be applied by the Board or the payee of such insurance proceeds in payment therefor; provided, however, that in the event within one hundred eighty (180) days after said damage or destruction, the Unit Owners shall elect either to sell the Property as hereinafter provided in Article 8 hereof or to withdraw the Property from the provisions of this Declaration and from the provisions of the Act as therein provided, then such repair, restoration, or reconstruction shall not be undertaken. In the

# UNOFFICIAL COPY

event such repair, restoration, or reconstruction is not undertaken the net proceeds of insurance policies shall be divided by the Board or the payee of such insurance proceeds among all Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements as set forth Exhibit "D," after first paying from the share of each Unit Owner the amount of any unpaid liens on his Unit, in the order of the priority of such liens.

## 6.2 Insufficient Insurance.

(a) If the insurance proceeds and the reserve for replacements are insufficient to reconstruct the Building and the Unit Owners and all other parties in interest do not voluntarily make provision for reconstruction of the Building within one-hundred eighty (160) days from the date of damage or destruction, then the provisions of the Act shall apply.

(b) In the case of damage or other destruction in which fewer than one-half (1/2) of the Units are rendered uninhabitable, upon the unanimous affirmative vote of the Unit Owners voting at a meeting called for the purpose, the Building or other portion of the Property shall be reconstructed. The meeting shall be held within thirty (30) days following the final adjustment of insurance claims, if any; otherwise, such meeting shall be held within ninety (90) days of the occurrence of the damage or other destruction. At such meeting the Board or its representatives shall present to the members present, an estimate of the cost of repair or reconstruction, and the estimated amount of necessary assessments against each Unit Owner.

(c) In the case of damage or other destruction, upon the unanimous affirmative vote of the Unit Owners voting at a meeting called for that purpose, any portion of the Property affected by such damage or destruction may be withdrawn from the Act. Upon the withdrawal of any Unit or portion thereof, the percentage of interest in the Common Elements appurtenant to such Unit or portion thereof shall be reallocated among the remaining Units on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is withdrawn, the percentage of interest appurtenant to that Unit shall be reduced accordingly, upon the basis of diminution in market value of the Unit, as determined by the Board. Payment of just compensation, or the allocation of any insurance or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis, which need not be a Unit's percentage interest. Any insurance 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 interest therein. Any proceeds available from the withdrawal of any Limited Common Elements will be distributed in accordance with the interest 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 by the Unit Owner shall cease.

6.3 Eminent Domain: In the event any portion of the Property is taken by condemnation or eminent domain proceedings, provision for withdrawal of the portions so taken from the provisions of the Act may be made by the Board. Upon the withdrawal of any Unit or portion thereof due to eminent domain, the percentage of interest in the Common Elements appurtenant to such Unit or portion so withdrawn shall be reallocated among the remaining Units on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is

# UNOFFICIAL COPY

withdrawn, the percentage of interest appurtenant to that Unit shall be reduced accordingly, upon the basis of diminution in market value of the Unit, as determined by the Board. 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 interest. 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 interest therein. Proceeds available from the withdrawal of any Limited Common Elements will 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 by the Unit Owner shall cease. The Association shall represent the Unit Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of the Common Elements or any part thereof. In the event of the total taking of the Property by eminent domain, the condemnation award available in that connection shall be divided by the Association among all Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements as set forth in Exhibit "D," after first paying from the share of each Unit Owner the amount of any unpaid liens on his Unit, in the order of the priority of such liens.

6.4 Repair, Restoration or Reconstruction of the Improvements: As used in this Article, "repair, restoration or reconstruction" of improvements means restoring the improvements to substantially the same condition in which they existed prior to the damage or destruction, with each Unit (excluding additions, alteration and improvements to Units) and Common Element having the name vertical and horizontal boundaries as before, unless, allowed by the Act, other action is approved by holders of first mortgages on Units representing a Majority of Unit Owners. Any repair, restoration or reconstruction shall be in accordance with law and the terms of this Declaration and the Operating Declaration.

## ARTICLE 7

### ASSESSMENT

7.1 Purpose of Assessments: Each Unit Owner shall be responsible for payment of his share of the Common Expenses and other charges incurred in conformance with the Declaration as provided in the Act, this Declaration and the By-Laws, and the Association shall levy assessments for such purposes promoting the health, safety, and welfare of the Unit Owners, administering the affairs of the Association, and paying Common Expenses and other charges.

7.2 Procedure: Annual assessments shall be made and special assessments may be made as provided in the By-Laws.

7.3 User Charges: The Board may establish, and each Unit Owner shall pay, user charges to defray the expenses of providing services, facilities or benefits which may not be used equally proportionately by all of the Unit Owners or which, in the judgment of the Board, should not be charged to every Unit Owner. Such user charges may be billed separately to each Unit Owner benefitted thereby, or may be added to such Owner's share of Common Expenses, as otherwise determined, and collected as a part thereof. Nothing herein shall require the

# UNOFFICIAL COPY

establishment of user charges pursuant to this Section 7.3 and the Board may elect to treat all or any portion thereof as Common Expenses.

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

## ARTICLE 8

### SALE OF THE PROPERTY

At a meeting duly called for such purpose, the Unit Owners by affirmative vote of at least seventy-five percent (75%) of the total vote, may elect to sell the Property as a whole. Within ten (10) after the date of the meeting at which 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 Article 10 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 as in manner and form may be necessary to effect such sale; provided, however, that any Unit Owner who did not vote in favor of such action and who has filed written objection thereto with the Board within twenty (20) days after the date of the meeting at which such sale was approved, shall be entitled to receive from the proceeds of such sale an amount equivalent to the value of his interest, as determined by an appraisal less the amount of any unpaid assessments or charges due and owing from such Unit Owner. In the absence of agreement on an appraiser, such Unit Owner and the Board may each select a qualified appraiser, experienced in the appraisal of condominium units in metropolitan Chicago, Illinois, and the two (2) so selected, shall select a third appraiser, experienced in the appraisal of condominium units in metropolitan Chicago, Illinois, and the fair market value, as determined by a majority of the three (3) so selected, shall control. If either party shall fail to select an appraiser, then the one designated by the other party shall make the appraisal. The cost of the appraisal shall be divided equally between such Unit Owner and the Board, and the Board's share of said cost shall be a Common Expense.

## ARTICLE 9

### REMEDIES

9.1 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 9.2 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 this Declaration or the By-Laws for ten (10) days after written notice of such non-payment shall have been given such Unit Owner; provided that such defaulting Unit Owner shall not be entitled to written notice and opportunity to cure such failure if such Unit Owner has been given two or more notices pursuant to this Section 9.1(a) during the twelve-months immediately preceding the first day of such failure.



# UNOFFICIAL COPY

(b) Violation or breach by a Unit Owner (or any Occupant or his unit) of any provision, covenant or restriction of the Act, this Declaration, the By-Laws, any contractual obligation to the Board or Association undertaken by such Unit Owner, or the rules and regulations promulgated by the Board, and continuation of such violation or breach for ten (10) days after written notice thereof shall have been given such Unit Owner; provided that such defaulting Unit Owner shall not be entitled to written notice and opportunity to correct such violation or breach if such Unit Owner has been given one or more notices pursuant to this Section 9.1(b) during the twelve-month period immediately preceding the first day of such violation or breach.

9.2 Remedies: Upon the occurrence of any one or more of the events described in Section 9.1, 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 Section 13.1 hereof, of a notice to quit and deliver up possession which right may be enforced by an action for possession under Article IX of the Code of Civil Procedure, as amended, or any other appropriate legal process.

(b) For a violation or breach described in Section 9.1(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 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 9.1(a) hereof, including without limitation, failure by a Unit Owner to pay Common Expenses or user charges, the Board shall have a lien on the Unit Owner's Unit 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 first mortgage on the interest of such Unit Owner. Except as hereinafter provided, the lien provided for in this Section 9.2(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 9.2(c) for any sums which became due prior to (i) the date of the transfer of title, or (iii) 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 any sums with respect to which a lien against the 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 9.2(c).

(d) The Board shall have the power to issue to the defaulting Unit Owner a ten (10)

# UNOFFICIAL COPY

day notice in writing 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 elimination 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 the purchaser shall take the interest in the Unit Ownership sold subject to this Declaration. The proceeds 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 a writ of assistance or 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 in equity 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, (iv) for any combination of the remedies set forth in this Article, or (v) for any other relief which the Board may deem necessary or appropriate. Any and all rights and remedies provided for in the Act, this Declaration, the By-Laws, contractual obligations 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 9.1(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%) per annum, or such lesser rate charged by law should eighteen percent (18%) be held to be in excess of the maximum legal rate allowable by law, 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.

# UNOFFICIAL COPY

9.3 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 in equity against the defaulting Unit Owner (or occupant of his Unit) upon a violation or breach described in Section 9.1(b) hereof against any person or persons either to restrain such violation or breach or to recover damages.

## ARTICLE 10

### MISCELLANEOUS PROVISIONS RESPECTING MORTGAGEES

The following provisions are intended for the benefit of each holder at a recorded first mortgage or trust deed encumbering a Unit Ownership ("First Mortgagee") and to the extent, if at all, that any other provisions of this Declaration conflict with the provisions, the following provisions shall control:

(a) Upon request in writing to the Association identifying the name and address of the First Mortgagee or the insurer or guarantor of a recorded first mortgage or trust deed on a Unit ("Insurer or Guarantor") and the Unit number, the Association shall furnish each First Mortgagee, Insurer or Guarantor a written notice of any Unit Owner's obligations under this Declaration which are in default and have not been cured within thirty (30) days. Any First Mortgagee of a Unit, as well as any other holder of a prior recorded mortgage on a Unit, who comes into possession of the said Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure shun, to the extent permitted by law, take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Unit which become due prior to (i) the date of the transfer of title, or (ii) the date on which the holder comes into possession of the Unit, whichever occurs first (except for any sums which are reallocated among the Unit Owners pursuant to the last sentence of Section 9.2(c) hereof).

(b) Upon request in writing, each First Mortgagee, Insurer or Guarantor shall have the right:

(i) to examine current copies of this Declaration, the By-Laws, rules and regulations and the books and records of the Association during normal business hours;

(ii) to receive, without charge and within a reasonable time after such request, any annual audited or unaudited financial statements which are prepared and distributed by the Association to the Unit Owners at the end of each of its respective fiscal years, provided, however, that in the event an audited financial statement is not available, 51% or more of the First Mortgagees (by number) shall be entitled to have such an audited statement prepared at their expense;

(iii) to receive written notices of all meetings of the Association and to designate a representative to attend all such meetings;



# UNOFFICIAL COPY

(iv) to receive written notice of any decision by the Unit Owners to make a material amendment to the Declaration, By-Laws contained herein or Articles of Incorporation;

(v) to receive written notice of any loan, cancellation or modification of any insurance policy or fidelity bond maintained by the Association; and

(vi) to receive written notice of any action which would require the consent of a specified percentage of First Mortgagees.

(c) No provision of this Declaration or Articles of Incorporation of the Association 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 rights of the First Mortgagees pursuant to their mortgages in the case of distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of the Units, and/or the Common Elements, or any portion thereof in interest therein. In such event, the First Mortgagees, Insurers or Guarantors of the Units affected shall be entitled, upon specific written request, to timely written notice of any such loss.

(d) Unless the First Mortgagees of all of the Units which are a part of the Property have given their prior written approval, neither the Association nor the Unit Owners shall be entitled to:

(i) by act or omission seek to abandon or terminate the condominium status of the Property, except for abandonment provided by the Act in case of substantial loss to or condemnation of the Units and/or the Common Elements;

(ii) change the pro rata interest or obligations of any Unit Owner for (1) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, and (2) determining the pro rata share of ownership of each Unit Owner in the Common Elements, except as provided in Sections 4.7, 6.2 and 6.3;

(iii) use hazard insurance proceeds for losses to any Property (whether to Units or to Common Elements) for other than the repair, replacement, or construction of such improvements, except as provided by the (1) Act in case of substantial loss to the Units and/or the Common Elements, or (2) the Operating Declaration.

(e) Unless the First Mortgagees of the individual Units representing at least fifty-one percent (51%) of the votes in the Association shall have given their prior written approval, neither the Association nor the Unit Owners shall be entitled to do or permit to be done any of the following:

(i) adoption of an amendment to this Declaration which (i) changes Section 9.2(c), (ii) changes Article 10 or any other provision of this Declaration which specifically grants rights to First Mortgagees, (iii) materially changes insurance and fidelity bond requirements, or (iv) imposes a right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey Unit Ownership or changes the provisions concerning the leasing of Units;

# UNOFFICIAL COPY

(ii) the abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Elements (except for the granting of easements for public utilities or for other purposes consistent with the intended use of the Property and except for the encumbrance, sale or transfer of the percentage of ownership in the Common Elements in connection with the encumbrance, sale or transfer of a Unit Ownership);

(iii) the sale of the Property;

(iv) the removal of a portion of the Property from the provisions of the Act and this Declaration; or

(v) the effectuation of a decision by the Association to terminate professional management of management and assume self-management of the condominium.

(f) Upon specific written request to the Association, each First Mortgagee and Insurer of a Unit shall be furnished notice in writing by the Association of any damage to or destruction or taking of the Common Elements if such damage or destruction or taking exceeds Ten Thousand Dollars (\$10,000) or if damages shall occur to a Unit in excess of One Thousand Dollars (\$1,000), notice of such event shall also be given.

(g) If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the First Mortgagee, Insurer or Guarantor of said Unit will, be entitled to timely written notice upon specific written request, of any such proceeding or proposed acquisition and no provisions of any document will entitle the owner of a Unit or other party to priority over such First Mortgagee with respect to the distribution to such Unit of the proceeds of any award or settlement.

(h) Notwithstanding anything herein to the contrary requiring approval of any mortgagee or lien holder of record, and if the mortgagee or lien holder of record receives a request to approve or consent to an amendment to the Declaration and/or By-Laws, the mortgagee or lien holder of record is deemed to have approved or consented to the request unless the mortgagee or lien holder of record delivers a negative response to the requesting party within sixty (60) days after the mailing of the request. A request to approve or consent to an amendment to the Declaration and/or By-Laws that is required to be sent to a mortgage or lien holder of record shall be sent by certified mail.

## ARTICLE 11

### TRANSFER OF A UNIT

11.1 Unrestricted Transfers: Subject to Section 11.2 hereof, a Unit Owner may, without restriction under the Declaration, sell, give, devise, lease or otherwise transfer his entire Unit. Notice at any such unrestricted transfer, together with the name, telephone number and address (if other than the Property) of the new Unit Owner, in case of a sale of the Unit, shall be

# UNOFFICIAL COPY

given to the Board, in the manner provided in this Declaration for the of notices, not less than ten (10) days prior to such transfer.

11.2 Limits on Leases: No Unit shall be leased by a Unit Owner, for hotel or transient purposes or for a term less than six (6) months (other than is elsewhere permitted in this Declaration) and no portion of a Unit which is less than the entire Unit shall be leased. The provisions of the Condominium Property Act, the Declaration, By-Laws and rules and regulations that relate to the use of the individual Unit or the Common Elements shall be applicable to any person leasing a Unit and shall be deemed to be incorporated in any lease. With regard to any lease, the Unit Owner leasing the Unit shall deliver a copy of the signed lease to the Board or if the lease is oral, a memorandum of the lease, not later than the date of occupancy or ten (10) days after the lease is signed, whichever occurs first. In addition to any other remedies, by filing an action jointly against the tenant and the Unit Owner, the Association may seek to enjoin a tenant from occupying a Unit or seek to evict a tenant under the provisions of Article IX of the Code of Civil Procedure for failure of the lessor-Unit Owner to comply with the leasing requirements prescribed by the Act or by the Declaration, By-Laws, and rules and regulations. The Board may 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 a tenant of any covenants, rules, regulations or By-Laws. Prior to occupancy of a Unit by a lessee, the Unit Owner shall furnish to the Board the following information: In addition to the foregoing, in order to maintain the quality of life and property values, the objective of the Association is to promote and encourage Unit Owners to reside on the premises. Following the effective date of this Declaration and subject to the provisions contained herein, at no time shall there be more than twelve (12) of the total Units leased. All Owners desiring to lease their Unit must follow the procedures as set forth herein. Any Owner properly leasing their Unit as of the effective date of this Amendment shall be "grandfathered" and shall be allowed to continue to lease their Unit, without restriction, until the term of the current lease of their Unit on file with the Association as of the effective date of this Amendment expires. Upon expiration of said lease term, all Owners shall be immediately subject to the lease restrictions contained herein.

- a) The term "leasing of units" includes a transaction wherein the title holder of a Unit, who does not reside therein, permits its occupancy by persons not on title regardless of whether a formal written lease exists or if money or any other form of consideration is paid therefore; provided that if the Unit Owner is a corporation, partnership or other business entity, such Unit Owner may allow a shareholder, partner or director holding at least 25% interest or shares in the entity to reside in the Unit without being subject to this Amendment. Additionally, the term "leasing of Units" shall include any transaction wherein possession of a Unit is provided prior to transfer of title. In no event may less than the entire Unit be leased. A Unit Owner shall be deemed to "reside" in a Unit if he/she has slept in the Unit for the majority of the days of the previous six months.
- b) Any Owner desiring to lease out their Unit must apply to the Board prior to entering into a lease agreement and provide a copy of the proposed lease in advance of execution.

# UNOFFICIAL COPY

- c) The Board shall promptly review the proposed lease agreement in order to verify that it complies with the standards as set forth herein.
- d) Once a Unit Owner's application has been approved, they shall be subject to the following procedure:
- i. In the event less than twelve (12) of the total Units at the Association are being leased out at the time of application, the Owner shall be permitted to lease the Unit.
  - ii. In the event more than twelve (12) of the total Units at the Association are currently being leased at the time of the application, the Owner's name shall be added to a waiting list to be maintained by the Board, and the Unit may not be leased except as set forth below:
    1. Addition to the Waiting List is on a first-come, first-served basis, which shall be determined chronologically. For example, if a Unit Owner desires to be placed on the Waiting List, they will be placed at the end of the Waiting List with the date and time of the placement listed ("Waiting List Date"). The Unit Owner with the oldest Waiting List Date shall be the first person eligible to lease their Unit, should a spot open.
    2. If there is a Unit Owner(s) on the Waiting List when a spot opens, the first person on the Waiting List will be notified by the Board that a right to lease has opened, and thereafter the Unit Owner shall have fourteen (14) days to notify the Board in writing of their intent to lease. The Unit Owner must then provide a copy of an executed Lease within sixty (60) days following the Unit Owner's notification to the Board of his or her intent to lease; otherwise the Unit Owner forfeits his right to lease and the right to rent will transfer to the next person on the Waiting List.
- e) Hardship: If a hardship as determined by the Board of Directors, exists, the Unit Owner may apply for a hardship waiver of the leasing restrictions set forth herein in the following manner:
- i. The Unit Owner must submit a request in writing to the Board of Directors requesting a one (1) year hardship waiver of this paragraph, setting forth the reasons why they are entitled to same.
  - ii. If, based on the data supplied to the Board of Directors by the Unit Owner, the Board finds that a reasonable hardship exists, the Board

# UNOFFICIAL COPY

may grant such hardship waiver. Any lease entered into shall be in writing and for a period of one (1) year. The lease must also contain a provision that failure by the tenant or the Unit Owner to abide by the Declaration, By-Laws or Rules and Regulations (the "Governing Documents") of the Association may, in the discretion of the Board of Directors, result in termination of the lease by the Board of Directors. After the one (1) year period, if the Unit Owner wishes to be considered for an extension of the hardship, such Unit Owner shall make a request to the Board and must comply with all other restrictions provided in this Subsection (ii). All decisions of the Board shall be final. The Board's decision shall be final and binding.

- f) All unpaid charges including legal fees as a result of the foregoing shall be deemed to be a lien against the Unit and collectible as any other unpaid regular or special assessment, including late fees and interest on the unpaid balance.
- g) Nothing herein shall not prohibit the Board from leasing any Unit owned by the Association or any Unit which the Association has been issued an Order of Possession by the Circuit Court of Cook County.

11.3 Financing of Purchase by Association: The Board shall have authority to make such mortgage arrangements and other financing arrangements, and to authorize such special assessments proportionately among the respective Unit Owners, as the Board may deem desirable, in order to close and consummate the purchase or lease of a Unit, or interest therein, by the Association. However, no such financing arrangement may be secured by an encumbrance on any interest in the Property other than the Unit, or interest therein to be purchased or leased, and the percentage interest in the Common Elements appurtenant thereto. The Board shall, also have the authority to finance improvements and repairs of the Common Elements.

11.4 Effect of Non-Compliance: If any sale, assignment, lease or sublease of a Unit Ownership is attempted or consummated without complying with the provisions of this Article 11, such sale, assignment, lease or sublease shall be subject to the rights and options of the Board, and remedies available to the Board, hereunder or otherwise, including, without limitation, denial on termination of possession of the Unit.

#### 11.5 Miscellaneous.

(a) A transfer or lease of a Unit, or interest therein, by or to the Board shall not be subject to the provisions of this Article 11.

(b) The Association shall hold title to or lease any Unit, pursuant to the terms hereof, in the name of the Association, or a nominee thereof delegated by the Board, for the sole benefit of all Unit Owners. The Board shall have the authority at any time to sell, lease or sublease said

# UNOFFICIAL COPY

Unit on behalf of the Association upon such terms as the Board shall deem desirable, but in no event shall a Unit be sold for less than the amount paid by the Association to purchase said Unit unless Unit Owners owning not less than sixty-six and two-thirds percent (66 2/3%) of the total ownership of the Common Elements first authorize the sale for such lesser amount. All of the net proceeds from such a sale, lease or sublease shall be applied in such manner as the Board shall determine.

## ARTICLE 12

### OPERATING DECLARATION

The provisions of this Declaration are subject to the provisions of the Operating Declaration. Each Unit Owner, by acceptance of a deed to a Unit Ownership, covenants and agrees that the obligations of the Operating Declaration, which are imposed on the Owner of the Residential Property (as defined in the Operating Declaration) shall be the obligations of the Unit Owners collectively and each Unit Owner agrees to cause the Association to perform the obligations on behalf of the Unit Owners collectively and each Unit Owner individually agrees to be responsible for that portion of the cost of performing such undertakings equal to the respective Unit Owner's percentage of interest in the Common Elements. With respect to any cost incurred by the Association in the performance at any undertaking under the Operating Declaration, such cost shall be deemed a Common Expense, the payment of which shall be enforced in the same manner as any other Common Expense provided herein. In the event of any inconsistency between the provisions of this Declaration and the provisions of the Operating Declaration, the provisions of the Operating Declaration shall prevail.

## ARTICLE 13

### GENERAL PROVISIONS

13.1 Manner of Giving Notices: Notices provided for in this Declaration and in the Act shall be in writing and shall, be addressed to the Board or Association, or any Unit Owner, as the case may be, at the Unit address of each member of the Board or any Unit Owner, as the case may be, or at such other address as herein provided. Any Unit Owner may designate a different address or addresses for notices to him by giving written notice of his change of address to the Board or Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail or when delivered in person with written acknowledgement of the receipt thereof, or, if addressed to a Unit Owner, when deposited in his mailbox at such address as he may have designated pursuant hereto or, if he has not so designated, in the Building or at the door of his Unit in the Building.

13.2 Notices of Estate or Representatives: 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.

13.3 Conveyance and Leases: Each grantee of the Board by the acceptance of a deed



# UNOFFICIAL COPY

of conveyance, and each purchaser under Articles of Agreement for Deed and each tenant under a lease for a Unit, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person having at any time an interest or estate in the Property, and shall inure to the benefit of such Unit Owner in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance.

13.4 No Waivers: 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.

13.5 Change, Modification or Rescission: The provisions of Article 10 and Sections 9.2, 13.10 and the following provisions of this Section 13.5 of this Declaration may be changed, modified, or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the President or a Vice President of the Board, and by three-fourths (3/4) of the Unit Owners and all mortgagees having bona fide liens of record against all of the Unit Ownerships. Neither Article 12 nor any other provision contained herein or in the By-Laws that affects any rights granted to the owners of the Basement and/or Commercial Property, as set forth in the Operating Declaration, or establishes obligations benefitting such owners may be amended without the prior written consent of such owners and the mortgagees of such other properties. Other provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the President or a Vice President of the Board, and approved by the affirmative vote of at least two thirds (2/3) of the total ownership of the Common Elements, at a meeting called for that purpose, provided, however, that First Mortgagees of record have been notified by certified mail of any change, modification, or rescission, and an affidavit by the Secretary of the Board certifying to such mailing is made a part of such instrument and provided further that any provisions herein which specifically grant rights to First Mortgagees of record may be amended only with the written consent of all such First Mortgagees. The change, modification or rescission shall be effective upon recordation of such instrument in the Office of the Recorder of Deeds of Cook County, Illinois; provided, however, that no such 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 the extent authorized by other provisions of this Declaration or by the Act.

13.6 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 manner the validity, enforceability or effect of the rest of this Declaration.

13.7 Perpetuities and Other Invalidity: If any of the options, privileges, covenants or

# UNOFFICIAL COPY

rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provisions, (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 Richard M. Daley, the Mayor of the City of Chicago.

13.8 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.

13.9 Ownership by Land Trustee: In the event title to any Unit Ownership is conveyed to a land title holding trust, under the terms of which all powers of management, operation and control of the Unit Ownership remain vested in the trust beneficiary or beneficiaries, then the Unit Ownership 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 Ownership. 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 Ownership and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest any such trust or any transfers of title of such Unit Ownership.

13.10 Resale approval. In the event of a sale of a condominium unit by a Unit Owner, the Association shall not exercise any right of refusal, option to purchase, or right to disapprove the sale, on the basis that the purchaser's financing is guaranteed by the Federal Housing Administration.

13.11 Use of Technology. Any notice required to be sent or received or signature, vote, consent, or approval required to be obtained under any condominium instrument or any provision of the Act may be accomplished using acceptable technological means. The Association, Unit Owners, and other persons entitled to occupy a Unit may perform any obligation or exercise any right under any condominium instrument or any provision of the Act by use of acceptable technological means. A signature transmitted by acceptable technological means satisfies any requirement for a signature under any condominium instrument or any provision of the Act. Voting on, consent to, and approval of any matter under any condominium instrument or any provision of the Act may be accomplished by any acceptable technological means, provided that a record is created as evidence thereof and maintained as long as the record would be required to be maintained in non-electronic form. Subject to other provisions of law, no action required or permitted by any condominium instrument or any provision of the Act need be acknowledged before a notary public if the identity and signature of the signatory can otherwise be authenticated to the satisfaction of the Board of Directors or Board of Managers. If any person does not provide written authorization to conduct business using acceptable technological means, the Association shall, at its expense, conduct business with the person without the use of acceptable technological means.



# UNOFFICIAL COPY

## AFFIDAVIT OF SECRETARY

STATE OF ILLINOIS        )  
   ) SS  
 COUNTY OF COOK         )

I, STEFANIA DION, being first duly sworn on oath, depose and state that I am the Secretary of the Board of Managers for the 300 West Grand Condominium Association and as such Secretary and keeper of the books and records of said condominium. I further state that the foregoing amendment was approved by at least two-thirds (2/3) of the members of the Board of Managers of said condominium, at a meeting of the Board of Managers duly noticed and convened and held for that purpose on April 23, 2020 at which a quorum was present throughout, and such approval has not been altered, modified, or rescinded in any manner but remains in full force and effect. I further state the unit owners did not file a petition with the Board, pursuant to the requirements of Section 27(b)(3) of the Illinois Condominium Property Act, objecting to the adoption of this Amendment to the Declaration.

Stefania Dion  
 Secretary of the 300 West Grand  
 Condominium Association

SUBSCRIBED AND SWORN to  
 before me this 13 day  
 of April, 2020 2021

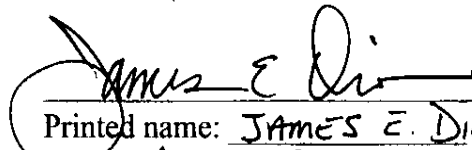
[Signature]  
 Notary Public

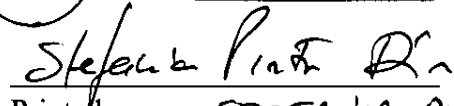


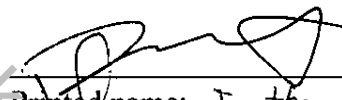
# UNOFFICIAL COPY


## BOARD MEMBER SIGNATURE PAGE

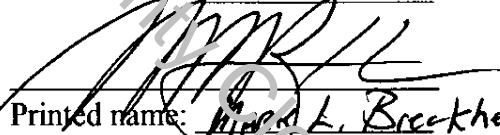
We, the undersigned, constitute at least two-thirds (2/3) of the members of the Board of Managers of the 300 West Grand Condominium Association established by the aforesaid Declaration of Condominium Ownership. By our signatures below, we hereby approve of and consent to the amendment to the Declaration pursuant to Section 27(b)(1) of the Illinois Condominium Property Act. In witness whereof, we have cast our votes and signed this document in favor of this Amendment at a duly called meeting of the Board of Managers of the 300 West Grand Condominium Association held on April 23, 2020.

  
 Printed name: JAMES E. DION

  
 Printed name: STEFANIA PINTON DION

  
 Printed name: Jonathan Garrity

  
 Printed name: DOUG SEVILLE

  
 Printed name: David L. Breckheimer

BOARD OF MANAGERS OF THE  
 300 WEST GRAND  
 CONDOMINIUM ASSOCIATION

# UNOFFICIAL COPY

## EXHIBIT "A"

### LEGAL DESCRIPTION

UNITS 201 THROUGH 607 IN 300 WEST GRAND AVENUE CONDOMINIUM AS DELINEATED AND DEFINED IN THE DECLARATION RECORDED AS DOCUMENT NO. 98548808, AS AMENDED, IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL NUMBERS: 17-09-236-019-1001 THROUGH AND INCLUDING 17-09-239-019-1051

Property of Cook County Clerk's Office

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

# UNOFFICIAL COPY

## EXHIBIT B

### PLAT OF SURVEY

Exhibit B is the Plat of Survey of the Parcel and of all Units in the Property submitted to the provisions of the Illinois Condominium Property Act, and is attached only to the original Declaration recorded with the Recorder of Deeds of Cook County, Illinois, as may have been amended from time to time.

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT "C"

### BY-LAWS OF THE 300 WEST GRAND CONDOMINIUM ASSOCIATION

#### ARTICLE I.

#### MEMBERS

#### (UNIT OWNERS)

Section A. Eligibility. The Association, an Illinois not-for-profit organization, shall have one class of membership which shall consist of all of the Unit Owners of the Property known as The 300 West Grand Condominium, Chicago, Illinois (the "Property"), in accordance with the respective percentages of ownership interest in the Common Elements of the Property owned by the respective Unit Owners. A Unit Owner may not assign, delegate, transfer, surrender, or avoid the duties, responsibilities, and liabilities of a Unit Owner under the Illinois Condominium Property Act, the condominium instruments, or rules and regulations of the Association; and such an attempted assignment, delegation, transfer, surrender, or avoidance shall be deemed void. The foregoing and other capitalized terms herein are used in these By-Laws as such terms are defined in the Declaration of Condominium Ownership and of Easements, Restrictions, Covenants and By-Laws for the Property, which Declaration is recorded in the Office of the Recorder of Deeds of Cook County, Illinois, and incorporated herein by this reference. The words "member" or "members" as used in these By-Laws mean and shall refer to "Unit Owner" or "Unit Owners" as the case may be, as defined in the Declaration.

Section B. Succession. The membership of each Unit Owner shall terminate when he ceases to be a Unit Owner, and upon the sale, transfer or other disposition of his ownership interest in the Property, his membership in the Association shall automatically be transferred to the new Unit Owner succeeding to such ownership interest.

Section C. Annual Meeting. There shall be a regular annual meeting of Unit Owners held each year on or about the first Monday of October of each year or at such other time as the Board shall designate. All such meetings of Unit Owners shall be held at such place in Cook County, Illinois, and at such time as specified in the written notice of such meeting.

Section D. Special Meetings. Special meetings of the Unit Owners may be called by the President, the Board or by 20% of the Unit Owners. Matters subject to the approval of Unit Owners, as set forth in the Act, Declaration or these By-Laws shall be submitted to the Unit Owners for their approval at special meetings which shall be called for such purpose by the President or the Board.

Section E. Delivery of Notice of Meetings. Written notice of any membership meeting shall be mailed or delivered giving Unit Owners no less than ten (10) and no more than



# UNOFFICIAL COPY

thirty (30) days' notice of the time, place, and purpose of such meeting, except that notice may be sent, to the extent the condominium instruments or Rules adopted thereunder expressly so provide, by electronic transmission consented to by the Unit Owner to whom the notice is given, provided that a Board member or officer or his agent certifies in writing to the delivery by electronic means. Any notice of any meeting mailed to a Unit Owner shall be deemed delivered on the second regular mail delivery day following the day of deposit of such notice in the United States mail, postage prepaid, addressed as aforesaid.

## Section F. Voting.

1. The aggregate number of votes for all Unit Owners shall be one hundred (100), and, except as otherwise herein provided, shall be divided among the respective Unit Owners in accordance with their respective percentages of ownership interest in the Common Elements as set forth in Exhibit "D" to the Declaration. Notwithstanding the foregoing, if 30% or fewer of the Units, by number, possess over 50%, in the aggregate of the votes in the Association, any percentage vote of the members of the Association specified herein or in the Declaration or Act shall require the specified percentage by number of Units rather than by percentage of interest in the Common Elements allocated to the Units that would otherwise be applicable.

2. There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Owners. Such person shall be known (and hereinafter referred to) as a "voting member." Such voting member may be the Owner or one of the group comprising all of the Owners of a Unit Ownership, or may be some person designated to act by proxy for such Owner(s) and who need not be an Owner. If any Unit Owner consists of more than one person, the voting rights of such Unit Owner 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. If more than one of the multiple owners are present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple Owners. There is majority agreement when any one of the multiple Owners cast the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit. In the event of such protest, the votes attributable to such Unit shall not be counted.

3. The affirmative vote of not less than two-thirds (2/3) of the total ownership of the Common Elements shall be required in order to approve any of the following proposed actions: (i) merger or consolidation of the Association; (ii) sale, lease, exchange or other disposition (excluding the mortgage or pledge) of all, or substantially all, of the Property and assets of the Association; and (iii) the purchase or sale of land or Units on behalf of all Unit Owners.

4. Except as provided in subsection (5) in connection with Board elections, a Unit Owner may vote by proxy executed in writing by the Unit Owner or by his duly authorized attorney in fact. The proxy must bear the date of execution and, unless the condominium instruments or the written proxy itself provide otherwise, the proxy is invalid after 11 months from the date of its execution; to the extent the condominium instruments or rules adopted

# UNOFFICIAL COPY

thereunder expressly so provide, a vote or proxy may be submitted by electronic transmission, provided that any such electronic transmission shall either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the Unit Owner or the Unit Owner's proxy. Any proxy distributed for Board elections by the Board must give Unit Owners the opportunity to designate any person as the proxy holder and 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.

5. If a rule adopted at least 120 days before a Board election or the Declaration or By-Laws provide for balloting as set forth in this subsection, Unit Owners may not vote by proxy in Board elections, but may vote only (i) by submitting an Association-issued ballot in person at the election meeting or (ii) by submitting an Association-issued ballot to the Association or its designated agent by mail or other means of delivery specified in the Declaration, By-Laws, or rule. The ballots shall be mailed or otherwise distributed to Unit Owners not less than 10 and not more than 30 days before the election meeting, and the Board shall give Unit Owners not less than 21 days' prior written notice of the deadline for inclusion of a candidate's name on the ballots. The deadline shall be no more than 7 days before the ballots are mailed or otherwise distributed to Unit Owners. Every such ballot must include the names of all candidates who have given the Board or its authorized agent timely written notice of their candidacy and must give the person casting the ballot the opportunity to cast votes for candidates whose names do not appear on the ballot. A ballot received by the Association or its designated agent after the close of voting shall not be counted. A Unit Owner who submits a ballot by mail or other means of delivery specified in the Declaration, By-Laws, or rule may request and cast a ballot in person at the election meeting, and thereby void any ballot previously submitted by that Unit Owner.

6. If a rule adopted at least 120 days before a Board election or the Declaration or By-Laws provide for balloting as set forth in this subsection, Unit Owners may not vote by proxy in Board elections, but may vote only (i) by submitting an Association-issued ballot in person at the election meeting; or (ii) by any acceptable technological means; instructions regarding the use of electronic means for voting shall be distributed to all Unit Owners not less than ten (10) and not more than thirty (30) days before the election meeting, and the Board shall give Unit Owners not less than twenty one (21) days' prior written notice of the deadline for inclusion of a candidate's name on the ballots; the deadline shall be no more than seven (7) days before the instructions for voting using electronic or acceptable technological means is distributed to Unit Owners; every instruction noticed must include the names of all candidates who have given the Board or its authorized agent timely written notice of their candidacy and must give the person voting through electronic or acceptable technological means the opportunity cast votes for candidates whose names do not appear on the ballot; a Unit Owner who submits a vote using electronic or acceptable technological means may request and cast a ballot in person at the election meeting, thereby avoiding any vote previously submitted by that Unit Owner.

7. If a written petition by Unit Owners with at least twenty percent (20%) of the votes of the Association is delivered to the Board within thirty (30) days after the Board's approval of a rule adopted pursuant to subsection (5) or subsection (6), the Board shall call a

# UNOFFICIAL COPY

meeting of the Unit Owners within 30 days after the date of delivery of the petition. Unless a majority of the total votes of the Unit Owners are cast at the meeting to reject the rule, the rule is ratified.

8. Votes cast by ballot under subsection (5) or electronic or acceptable technological means under subsection (6) are valid for the purpose of establishing a quorum.

9. 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 adopt 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.

Section G. Quorum. A quorum of Unit Owners for any meeting shall be constituted by the presence in person or by proxy at such meeting of at least twenty percent (20%) of the Unit Owners unless the Unit Owners, in accordance with the Act, provide otherwise, provided that in voting on amendments to the Association's Bylaws, a Unit Owner who is in arrears on the Unit Owner's regular or separate assessments for sixty (60) days or more, shall not be counted for purposes of determining if a quorum is present, but that Unit Owner retains the right to vote on amendments to the Association's Bylaws.

## ARTICLE II.

### BOARD OF DIRECTORS

Section A. Number, Election and Term of Office. The Board shall consist of seven (7) members. Each director elected to the Board shall serve for a term of two (2) years and shall serve until his successor shall be elected and qualified. Directors may be elected to succeed themselves but the term of any director shall not exceed two years. All members of the Board shall be elected at large.

Section B. Biographical Information. The Board may disseminate to Unit Owners biographical and background information about candidates for election to the Board if: (1) no preference is expressed in favor of any candidate; and (2) 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 C. Qualification. Each director shall be a Unit Owner, or, if a Unit Owner is a corporation, a director may be an officer of such Unit Owner, or if a Unit Owner is a partnership, a director may be a partner of such Unit Owner, or if a Unit Owner is a trust, a director may be a beneficiary of such Unit Owner. If a director shall cease 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. If there are multiple Unit Owners of a single Unit, only one of the multiple Unit Owners shall be eligible to serve as a member of the Board at any one time.

# UNOFFICIAL COPY

## Section D. Vacancies.

1. The remaining members of the Board may fill a vacancy on the Board by a two-thirds (2/3) vote until the next annual meeting of Unit Owners or for a period terminating no later than thirty (30) days following the filing of a petition signed by Unit Owners holding twenty percent (20%) of the votes of the Association requesting a meeting of the Unit Owners to fill the vacancy for the balance of the term. A meeting of the Unit Owners shall be called for the purpose of filling a vacancy on the Board no later than thirty (30) days following the filing of a petition signed by Unit Owners holding twenty percent (20%) of the votes of the Association requesting such a meeting.

## Section E. Meetings.

1. The Board shall meet at least four (4) times annually, one of the meetings to be held within ten (10) days following the regular annual meeting of Unit Owners. Written notice stating the date, time and place of regular meetings shall be delivered, either personally or by mail or telegram, to a director at the address given to the Board by said director for such purpose not less than forty-eight (48) hours prior to the date of each such meeting.

2. Special meetings of the Board shall be held upon a call by the President or by 25% of the members of the Board on not less than forty-eight (48) hours' notice in writing to each director, delivered personally or by mail or telegram at the address given to the Board by said director for such purposes.

3. Any director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action of the Board without a meeting. A director's attendance at a meeting shall constitute his waiver of notice of said meeting.

4. Every meeting of the Board shall be open to any Unit Owner, except that the Board may close any portion of a noticed meeting or meet separately from a noticed meeting to: (i) 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, (ii) discuss the appointment, employment, engagement or dismissal of an employee, independent contractor, agent, or other provider of goods and services, (iii) interview a potential employee, independent contractor, agent, or other provider of goods and services, (iv) discuss violations of rules and regulations of the Association, (v) discuss a Unit Owner's unpaid share of common expenses or (vi) consult with the Association's legal counsel. Any vote on these matters shall take place at a meeting of the Board or portion thereof open to any Unit Owner. Any Unit Owner may record the proceedings at meetings of the Board or portions thereof required to be open by tape, film, or other means. The Board may prescribe reasonable rules and regulations to govern the right to make such recordings. Except where such meetings concern the adoption of the proposed annual budget or any increase or establishment of an assessment (in which case each Unit Owner shall receive notice in the same manner as provided for membership meetings), notice of every meeting of the Board shall be given at least forty-eight (48) hours prior to the meeting, or such longer notice as the Condominium Property Act may separately require, to: (i) each unit owner who has provided the Association with written

# UNOFFICIAL COPY

authorization to conduct business by acceptable technological means, and (ii) to the extent that the condominium instruments of the Association require, to each other Unit Owner, as required by subsection (f) of Section 18.8 of the Act, by mail or delivery unless a written waiver of such notice is signed by the Unit Owner entitled to such notice before the meeting is convened, and that no other notice of a meeting of the Board need be given to any Unit Owner, Notice of every meeting of the Board shall be given to every Board member at least forty-eight (48) hours prior thereto, unless the Board member waives notice of the meeting pursuant to subsection (a) of Section 18.8 of the Act. In addition, notice of every meeting of the Board shall be posted in entranceways, elevators, or other conspicuous places in the condominium at least forty-eight (48) hours prior to the meeting of the Board. With respect to any meeting of the Board where adoption of the annual budget for the Association is on the agenda, all Unit Owners shall receive written notice of such meeting not less than ten (10) days and not more than thirty (30) days prior to the date of such meeting, stating the time and place of said meeting and the matters to be considered. Copies of notices of meetings of the Board shall be posted in entranceways, elevators, or other conspicuous places in the Property at least forty-eight (48) hours prior to the meeting of the Board.

Section F. Removal. Any director may be removed from office for cause by the vote of Unit Owners owning at least two-thirds (2/3) of the total ownership interest in the Common Elements at any annual or special meeting of the Association called for that purpose.

Section G. Compensation. Directors shall receive no compensation for their services.

Section H. Quorum. A majority of directors shall constitute a quorum. Board members may participate in and act at any meeting of the Board in person, by telephonic means, or by use of any acceptable technological means whereby all persons participating in the meeting can communicate with each other; that participation constitutes attendance and presence in person at the meeting.

Section I. Counting of Votes. A candidate for election to the Board or such candidate's representative shall have the right to be present at the counting of ballots for such election.

Section J. Contract Purchasers. In the event of a resale of a Unit, the purchaser of a Unit from a seller pursuant to an installment contract to purchase shall during such times as he or she resides in the Unit be counted toward a quorum for purposes 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 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 an installment contract shall be made available to the Association or its agent. For purposes of this section "installment contract" shall have the same meaning as set forth in Section 1(e) of "the Dwelling Unit Installment Contract Act."

Section K. Powers and Duties. The Board shall have the following powers and



# UNOFFICIAL COPY

duties, subject to the provisions of the Declaration:

1. to elect and remove the officers of the Association as hereinafter provided;
2. to administer the affairs of the Association and the Property;
3. to, at its option, engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer and operate the Property, or any part thereof, for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve;
4. to formulate policies for the administration, management and operation of the Property and the Common Elements thereof;
5. after a meeting of the Unit Owners, at which a quorum of Unit Owners need not be present, called for the specific purpose of discussing proposed rules and regulations, or amendments thereto, notice of which shall contain the full text thereof, to adopt and from time to time amend rules and regulations, with written notice thereof to all Unit Owners, governing the administration, management, operation and use of the Property and the Common Elements; provided, no rule or regulation 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, including, but not limited to, the free exercise of religion, nor may any rules or regulations conflict with the provisions of the Condominium Property Act or the condominium instruments. No rule or regulation shall prohibit any reasonable accommodation for religious practices, including the attachment of religiously mandated objects to the front-door area of a condominium Unit;
6. to provide for the maintenance, repair, and replacement of the Common Elements and off-site parking utilized in whole or part by Unit Owners, and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or Managing Agent. Nothing in this subsection (6) shall be deemed to invalidate any provision in the Declaration or By-Laws placing limits on expenditures for the Common Elements, provided, that such limits shall not be applicable to expenditures for repair, replacement, or restoration of existing portions of the Common Elements. The terms "repair, replacement or restoration" means expenditures to deteriorated or damaged portions of the Property related to the existing decorating, facilities, or structural or mechanical components, interior or exterior surfaces, or energy systems and equipment, with the functional equivalent of the original portions of such areas. Replacement of the Common Elements may result in an improvement over the original quality of such elements or facilities; provided that, unless the improvement is mandated by law or is an emergency as defined in Section 18(a)(8)(iv) of the Illinois Condominium Property Act, if the improvement results in a proposed expenditure exceeding five percent (5%) of the annual budget, the Board, upon written petition by Unit Owners with twenty percent (20%) of the votes of the Association delivered to the Board within twenty-one (21) days of the Board action to approve the expenditure, shall call a meeting of the Unit Owners within thirty (30) days of the date of delivery of the petition to consider the expenditure; unless a majority of the total votes of the Unit Owners are cast at the meeting to reject the expenditure, it is ratified;

# UNOFFICIAL COPY

7. to provide for the designation, hiring and removal of employees and other personnel, accountants and attorneys (including tax attorneys who may be retained as provided in the Act), and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate such powers to the manager or Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);

8. to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

9. to estimate the amount of the annual budget, and to prepare, adopt and distribute said budget as well as to provide the manner of assessing and collecting from the Unit Owners their respective shares of such estimated expenses, as hereinafter provided;

10. to have 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 such Unit or to another Unit or Units;

11. to obtain adequate and appropriate kinds of insurance as provided in the Declaration;

12. to determine the fiscal year of the Association and to change such fiscal year from time to time as the Board deems advisable;

13. to keep detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property;

14. to enter into agreements or arrangements for premises suitable for use as apartments for building personnel, upon such terms as the Board may approve;

15. to bid for and purchase, for and on behalf of the Association, any Unit, or interest therein, at a sale pursuant to a foreclosure of the lien for Common Expenses under the Act, or an order or direction of a court, or at any other private or public sale, upon the consent or approval of two-thirds of the Unit Owners other than the Unit Owner whose Unit is subject to such sale, provided that such consent shall set forth a maximum price that the Board or its duly authorized agent may bid and pay for such Unit;

16. to make such mortgage arrangements and special assessments proportionately among the Unit Owners, and such other financing arrangements as the Board may deem desirable in order to close and consummate the purchase or lease of a Unit, or interest therein, by the Association; provided, however, that no such financing arrangements shall be secured by an encumbrance on any interest in the Property other than the Unit, or interest therein, to be purchased and the percentage interest in the Common Elements appurtenant thereto;

17. to obtain a fiduciary or other bond as the Act may require in amounts and

# UNOFFICIAL COPY

covering all persons required by the Act, the cost of which shall be a Common Expense;

18. to own, encumber, lease, convey, and otherwise deal with Units conveyed to or purchased by it;

19. to act in a representative capacity in relation to matters involving the Common Elements or more than one Unit, on behalf of the Unit Owners, as their interest may appear;

20. to obtain loans in the name of the Association for the purpose of providing funds for the repair, replacement and renovation of the Common Elements and to assign future income of the Association including assessments due from Unit Owners as security for repayment thereof;

21. to impose charges for late payment 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, to levy reasonable fines for violation of the Declaration, these By-Laws or the rules and regulations of the Association, all in the manner set forth in the Declaration;

22. to acquire and pay out of the maintenance fund hereinafter provided for, the following:

(i) Services of any person or firm to act on behalf of the Unit Owners in connection with real estate taxes and special assessments of the Unit Ownerships, and in connection with any other matter 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.

(ii) Painting, cleaning, outside window washing, tuckpointing, maintenance, decorating, repair and replacement of the Common Elements (but not including the interior surfaces of the Units and of windows and hallway and perimeter doors appurtenant thereto, 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.

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

(iv) 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

# UNOFFICIAL COPY

of discharging it and any costs incurred by the Board by reason of said lien shall be specifically assessed to said Unit Owners.

(v) 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, and 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 levy a special assessment against such Unit Owner at for the cost of said maintenance or repair.

23. to record the granting of an easement for the laying of cable television or high speed internet cable where authorized by the Unit Owners under the provisions of Section 14.3 of the Condominium Property Act, and to obtain, if available and determined by the Board to be in the best interests of the Association, cable television or bulk high speed internet service for all of the Units of the condominium on a bulk identical service and equal cost per Unit; 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; ;

24. to exercise all other powers and duties of the Board provided for by the Act, the Declaration, the Illinois Not-For-Profit Corporation Act or otherwise permitted by law;

25. to 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 Section 14.2 of the Condominium Property Act;

26. to record any easement pursuant to the provisions of the Declaration;

27. to grant leases and licenses with respect to the Common Elements;

28. the Association shall have no authority to forbear the payment of assessments by any Unit Owner.

29. to 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 condominium;

30. by a majority vote of the entire Board, to assign the right of the Association to future income from Common Expenses or other sources, and to mortgage or pledge substantially all of the remaining assets of the Association;

31. to seek relief on behalf of all Unit Owners when authorized pursuant to Subsection (c) of Section 10 of the Condominium Property Act from or in connection with the assessment or levying of real property taxes, special assessments, and any other special taxes or charges of the State of Illinois or of any political subdivision thereof or of any lawful taxing or assessing body;

# UNOFFICIAL COPY

32. to reasonably accommodate the needs of a Unit Owner who is a person with a disability as required by the federal Civil Rights Act of 1968, the Human Rights Act and any applicable local ordinances, in the exercise of its powers with respect to the use of Common Elements or approval of modifications in an individual Unit;

33. to accept service of a notice of claim for purposes of the Mechanics Lien Act on behalf of each respective member of the Association with respect to improvements performed pursuant to any contract entered into by the Board or any contract entered into prior to the recording of the Declaration pursuant to the Act, and to distribute the notice to the Unit Owners within 7 days of the acceptance of the service by the Board. The service shall be effective as if each individual Unit Owner had been served individually with notice;

34. to adopt and amend rules and regulations (1) authorizing electronic delivery of notices and other communications required or contemplated by the Condominium Property Act to each Unit Owner who provides the Association with written authorization for electronic delivery and an electronic address to which such communications are to be electronically transmitted; and (2) authorizing each Unit Owner to designate any electronic address or a U.S. Postal Service address, or both, as the Unit Owner's address on any list of members or Unit Owners which the Association is required to provide upon request pursuant to any provision of the Condominium Property Act or any condominium instrument;

35. in the performance of their duties, the officers and members of the Board shall exercise the care required of a fiduciary of the Owners;

36. the Board may establish and maintain a system of master metering of public utility services and collect payments in connection therewith, subject to the requirements of the Tenant Utility Payment Disclosure Act;

37. the Board may ratify and confirm actions of the members of the Board taken in response to an emergency, as that term is defined in the Condominium Property Act, and that the Board shall give notice to the Unit Owners of: (i) the occurrence of the emergency event within seven (7) business days after the emergency event, and (ii) the general description of the actions taken to address the event within seven (7) days after the emergency event;

## ARTICLE III.

### OFFICERS

Section A. Designation. At each regular Board meeting following the regular annual meeting of Unit Owners, the directors present at said meeting (provided a quorum is present) shall elect the following officers of the Association by a majority vote:

1. a President, who shall be a director, and who shall preside over the meetings of the Board and of the Unit Owners, and who shall be the chief executive officer of



# UNOFFICIAL COPY

the Association. Unless otherwise provided by the Condominium Property Act, amendments to the condominium instruments authorized to be recorded shall be executed and recorded by the President of the Association or such other officer authorized by the Board;

2. a Secretary, who shall be a director, and who shall keep the minutes of all meetings of the Board and of the Unit Owners, and who shall be designated to mail and receive all notices as provided for in the Act, and who shall, in general, perform all the duties incident to the office of Secretary;

3. a Treasurer, who shall be a director, and who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported;

4. such additional officers as the Board shall see fit to elect.

Section B. Powers. The respective officers shall have the general powers usually vested in such officers, provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section C. Term of Office. Each officer shall hold office for the term of one year until his successor shall have been appointed or elected and qualified. Officers may be elected to succeed themselves.

Section D. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote of the members thereof at a special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer whom he succeeds. Any officer may be removed for cause at any time by a majority of the Board at a special meeting thereof.

Section E. Compensation. The officers shall receive no compensation for their services.

## ARTICLE IV.

### ASSESSMENTS

Section A. Annual Budget. On or before sixty (60) days prior to the commencement of each fiscal year of the Association, the Board shall cause to be prepared an estimated annual budget for such fiscal year. Such budget shall take into account the estimated Common Expenses and cash requirements for the fiscal year, including salaries, wages, payroll taxes, legal and accounting fees, replacements, landscaping, insurance, utility charges and all other Common Expenses including reasonable reserves for capital expenditures and deferred maintenance for repairs or replacements of the Common Elements, although such reserves are not a requirement. The annual budget shall also take into account the estimated net available cash income for such fiscal year from the operation or use of the Common Elements. To the extent that the

# UNOFFICIAL COPY

assessments and other cash income collected from the Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. Each Unit Owner shall receive, at least twenty-five (25) days prior to the adoption thereof by the Board, a copy of the proposed annual budget together with an indication of which portions are intended for reserves, capital expenditures or repairs or payment of real estate taxes.

Section B. Notification of Meetings Regarding Assessments. Each Unit Owner shall receive notice, in the same manner as is provided in the Act for notice of meetings of the voting members, of any meeting of the Board concerning the adoption of the proposed annual budget and regular assessments pursuant thereto or the adoption of a separate (special) assessment.

Section C. Assessments. On or before the first day of the first month and of each succeeding month of the fiscal year covered by the estimated annual budget, each Unit Owner shall pay, as his respective monthly assessment for the Common Expenses, one-twelfth (1/12) of his proportionate share of the Common Expenses for such year as shown by the annual budget. Except as may be otherwise provided in the Declaration, such proportionate share for each Unit Owner shall be in accordance with his respective ownership interest in the Common Elements as set forth in Exhibit "D" of the Declaration.

Section D. Procedures Regarding Regular and Separate Assessments.

1. Except as provided in subsection (3) below, if an adopted budget or any separate assessment by the Board 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 Unit Owners with twenty percent (20%) of the votes of the Association delivered to the Board within twenty-one (21) days of the Board action, shall call a meeting of the Unit Owners within thirty (30) days of the date of delivery of the petition to consider the budget or separate assessment. Unless a majority of the total votes of the Unit Owners are cast at the meeting to reject the budget or separate assessment, it is ratified.

2. Any Common Expense not set forth in the budget or any increase in assessment over the amount adopted in the budget shall be separately assessed against all Unit Owners.

3. Separate assessments for expenditures relating to emergencies or mandated by law may be adopted by the Board without being subject to Unit Owner approval or the provisions of subsection (1) above or subsection (4) below. 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.

4. 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 sixty-six and two-thirds of the total votes of all Unit Owners.

# UNOFFICIAL COPY

5. The Board may adopt separate assessments payable over more than one fiscal year. With respect to multi-year assessments not governed by subsections (3) and (4), 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.

Section E. Partial Year or Month. Commencing with the date of acceptance by each Unit Owner of a deed of conveyance, he shall pay his assessment for the following month or fraction of a month, which assessment, except as may be otherwise provided in the Declaration, shall be in proportion to his respective ownership interest in the Common Elements as set forth in Exhibit "D" of the Declaration and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be as computed by the Board.

Section F. Failure to Prepare Annual Budget. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of his respective monthly assessment as last determined. Each Unit Owner shall pay his monthly assessment on or before the first day of each month to the Managing Agent or as may be otherwise directed by the Board. No Unit Owner shall be relieved of his obligation to pay his assessments for Common Expenses by abandoning or not using his Unit, the Common Elements, or the Limited Common Elements.

Section G. Annual Report. Within ninety (90) days after the end of each fiscal year, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Unit Owner an itemized accounting of the Common Expenses for the preceding year actually incurred and paid, together with an indication of which portions were for capital expenditures or repairs, payments to reserves or payment of real estate taxes and with a tabulation of the amounts collected pursuant to the budget for the preceding year, and showing the net excess or deficit of income over expenditures plus reserves, if any, and such other information as the Board may deem desirable. Audited financial statements may be obtained by the Board at its option, the cost of which will be a Common Expense.

Section H. Supplemental Budget. In the event that during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated Common Expenses for the remainder of such year, or in the event any nonrecurring Common Expense is anticipated for any year, then the Board, subject to the provisions of Section 4 hereof, may prepare and approve a supplemental budget covering the estimated deficiency or non-recurring expense for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a separate assessment shall be made to each Unit Owner for his proportionate share of such supplemental budget.

Section I. Limit on Expenditures. Unless contained in the annual budget, or in a separate assessment adopted in conformity with the provisions of these By-Laws, and except for items constituting operating expenses, the Board shall not approve any non-recurring single expenditure in excess of Fifty Thousand (\$50,000.00) Dollars unless required for repairs,

# UNOFFICIAL COPY

replacement, protection or operation of the Common Elements or enter into any contract having a term in excess of four (4) years (with the exception of cable television or satellite master antenna television contracts), without the prior approval of Unit Owners owning two-thirds (2/3) of the total ownership interest in the Common Elements.

Section J. Lien. It shall be the duty of every Unit Owner to pay his proportionate share of the Common Expenses, in the same ratio as his percentage of ownership in the Common Elements as set forth in Exhibit "D" of the Declaration or as may be otherwise provided in the Declaration, and as assessed in the manner herein provided. If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses or any user charges when due, the amount thereof, together with interest at the maximum rate permitted by the laws of the State of Illinois, shall constitute a lien on the interest of such Unit Owner as provided in Section 9.2(c) of the Declaration, and the Act. The Association shall have the right to exercise any and all rights provided for herein and in the Declaration in the event of any failure by a Unit Owner to pay when due his proportionate share of the Common Expenses or user charges.

Section K. Records of the Association. a) The 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 duly authorized agents and attorneys:

- (1) the Association's Declaration, By-Laws, and plats of survey, and all amendments of these;
- (2) the rules and regulations of the Association, if any;
- (3) the articles of incorporation of the Association and all amendments to the articles of incorporation;
- (4) minutes of all meetings of the Association and its Board for the immediately preceding 7 years;
- (5) all current policies of insurance of the Association;
- (6) 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;
- (7) a current listing of the names, addresses, email addresses, telephone numbers, and weighted vote of all members entitled to vote;
- (8) ballots and proxies related to ballots for all matters voted on by the members of the Association during the immediately preceding twelve (12) months, including, but not limited to, the election of members of the Board; and
- (9) the books and records for the Association's current and ten (10) immediately preceding fiscal years, including, but not limited to, itemized and detailed records of all receipts, expenditures, and accounts.

(b) Any member of the Association shall have the right to inspect, examine, and make copies of the records described in subsections (1), (2), (3), (4), (5), (6) and (9) of subsection (a) of this Section, in person or by agent, at any reasonable time or times, at the Association's

# UNOFFICIAL COPY

principal office. In order to exercise this right, a member must submit a written request to the Association's Board or its authorized agent, stating with particularity the records sought to be examined. Failure of the Association's Board to make available all records so requested within ten (10) business days of receipt of the member's written request shall be deemed a denial.

(c) Except as otherwise provided in subsection (e) of this Section, any member of an Association shall have the right to inspect, examine, and make copies of the records described in subsections (7) and (8) of subsection (a) of this Section, in person or by agent, at any reasonable time or times but only for purpose that relates to the Association, at the Association's principal office. In order to exercise this right, a member must submit a written request, to the Association's Board or its authorized agent, stating with particularity the records sought to be examined. As a condition for exercising this right, the Board or authorized agent of the Association may require the member to certify in writing that the information contained in the records obtained by the member will not be used by the member for any commercial purpose or for any purpose that does not relate to the Association. The Board of the Association may impose a fine in accordance with section 18.4(l) of the Act upon any person who makes a false certification. Subject to the provisions of subsection (e) of this Section, failure of the Association's Board to make available all records so requested within ten (10) business days of receipt of the member's written request shall be deemed a denial; provided, however, if the Board of the Association has adopted a secret ballot election process as provided in the Act, it shall not be deemed to have denied a member's request for records described in subdivision (8) of subsection (a) of this Section if voting ballots, without identifying unit numbers, are made available to the requesting member within ten (10) business days of receipt of the member's written request.

In an action to compel examination of records described in subdivisions (6), (7), (8), and (9) of subsection (a) of this Section, the burden of proof is upon the member to establish that the member's request is based on a proper purpose.

(d) The actual cost to the Association of retrieving and making requested records available for inspection and examination under this Section may be charged by the Association to the requesting member. If a member requests copies of records requested under this Section, the actual costs to the Association of reproducing the records may also be charged by the Association to the requesting member.

(e) Notwithstanding the provisions of subsection (c) of this Section, unless otherwise directed by court order, the Association need not make the following records available for inspection, examination, or copying by its members:

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

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

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

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

(5) documents provided to the Association in connection with the lease, sale, or



# UNOFFICIAL COPY

other transfer of a unit by a member other than the requesting member.

As used herein, "commercial purpose" means the use of any part of a record or records described in subdivision (7) or (8) of subsection (a) of this section, or information derived from such records, in any form for sale, resale, or solicitation or advertisement for sales or services. 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.

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

**Section L. Discharge of Liens.** A Unit Owner is not authorized to act in any manner so as to cause any purported mechanic's lien to be asserted against a Common Element. The Board may cause the Association to discharge any mechanic's lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the Property or the Common Elements, rather than against a particular Unit only. When less than all the Unit Owners are responsible for the existence or assertion of any such lien, such Unit Owners shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien. Nothing herein shall be deemed an authorization to a Unit Owner to cause any such lien to attach to a Common Element.

**Section M. Holding of Funds.** All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such separate 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 prepaid assessments) shall be deemed to be held, in trust, for the benefit, use and account of all the Unit Owners in the percentages as set forth in Exhibit "D" of the Declaration. The Board, in its reasonable discretion, may reallocate funds held in reserve accounts among such accounts.

## ARTICLE V.

### CONTRACTUAL POWERS

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 member of the Board member's immediate family has 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 twenty percent (20%) of the Unit Owners, for an election to approve or disapprove the contract. Such petition shall be filed within thirty (30) days after such notice and such election shall be held within thirty (30) days after filing the petition. For purposes of this provision, a Board member's immediate family means the Board member's spouse, parent, and children.



# UNOFFICIAL COPY

## ARTICLE VI.

### AMENDMENTS

These By-Laws may be amended or modified from time to time by action or approval of Unit Owners owning at least sixty-six and two thirds percent (66 2/3%) of the total ownership interest in the Common Elements as set forth in Exhibit "D" of the Declaration.

Such amendments shall become effective upon recording such amendments; provided, however, that no provision in these By-Laws may be amended so as to conflict with the Declaration or the Act.

## ARTICLE VII.

### INDEMNIFICATION

Section A. Liability of The Board of Managers. 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 as such Board members and officers, except for any acts or omissions found by a court to constitute willful misconduct in the performance of duty. The Unit Owners (and, to the extent permitted by law, the Association) shall indemnify and hold harmless each of the current and former members of the Board and each of the current and former officers 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 the Association, 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 the Declaration or these By-Laws. 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 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 officer of the Association may be involved by virtue of such person being or having been such member or officer; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for willful misconduct in the performance of his duties as such member or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by the Board (who may be counsel regularly retained by the Association) there is not reasonable ground for such person being adjudged liable for willful misconduct in the performance of his duties as such member or officer. The Board shall have authority to purchase and maintain insurance on behalf of the officers and members of the Board against any liability or settlement based on asserted liability, incurred by them by reason of being or having served in such capacity, whether or not the Association would have the power to indemnify them against such liability or settlement under the provisions of this Section. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board, the officers, or out of the aforesaid Unit Owners' indemnity, shall be limited to such proportion of the total liability thereunder as such Unit Owner's percentage interest in the Common Elements bears to the total

# UNOFFICIAL COPY

percentage interest of all the Unit Owners in the Common Elements. Every agreement made by the Board, the officers, or the managing agent on behalf of the Unit Owners shall provide that they are acting only as agents for the Unit Owners and shall have no personal liability thereunder shall be limited to such proportion of the total liability thereunder as such Unit Owner's percentage interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements.

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

Property of Cook County Clerk's Office

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

# UNOFFICIAL COPY

## THE 300 WEST GRAND CONDOMINIUM

### EXHIBIT "D"

#### PERCENTAGES OF OWNERSHIP IN THE COMMON ELEMENTS

Unit	Percentage
201	1.170%
202	1.434%
203	1.116%
204	1.394%
205	1.168%
206	1.702%
207	1.680%
208	1.683%
209	1.954%
210	1.814%
211	1.381%
212	1.643%
213	1.501%
301	1.209%
302	2.059%
303	2.019%
304	1.466%
305	1.870%
306	1.845%
307	1.848%
308	2.146%
309	1.876%
310	1.428%
311	1.698%
312	1.552%
401	1.363%
402	2.182%
403	2.195%
404	1.595%
405	2.091%
406	2.064%
407	2.068%
408	2.404%
409	2.132%

COOK COUNTY CLERK OFFICE  
 RECORDING DIVISION  
 118 N. CLARK ST. ROOM 120  
 CHICAGO, IL 60602-1387

# UNOFFICIAL COPY

410	1.612%
411	1.920%
412	1.754%
501	1.518%
502	2.613%
503	2.487%
504	1.768%
505	4.672%
506	2.784%
507	1.791%
601	1.589%
602	2.821%
603	2.692%
604	1.811%
605	4.735%
606	2.848%
607	1.835%
Total	100.00%

Property of Cook County Clerk's Office

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387