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DECLARATION OF CONDOMINIUM OWNERSHIP  
AND OF  
EASEMENTS, RESTRICTIONS AND COVENANTS  
FOR THE  
73 EAST ELM STREET CONDOMINIUM

THIS DECLARATION, made by Exchange National Bank of Chicago, a National Banking Association, as Trustee under Trust Agreement dated October 1st, 1972 and known as Trust No. 27072, acting under the direction of the parties authorized to direct the Trustee, and not individually, (hereinafter for convenience referred to as "Trustee");

W I T N E S S E T H

WHEREAS, the Trustee is the owner in fee simple of certain real estate in Chicago, Cook County, Illinois, legally described as follows:

Lots 23, 24 and 25 and the West 3.25 feet of Lot 26 (except therefrom the East 12 inches of the South 50.18 feet of the North 60.06 feet of said West 3.25 feet of said Lot 26) in Healy's Subdivision of Lot 1 and the North half of Lot 11 and part of Lot 10 in Block 2 of Canal Trustees Subdivision of South fractional half of Section 3 Township 39 North, Range 14 East of the Third Principal Meridian together with the North 36.5 feet of Lot 13 lying South of and adjoining Lots 23 and 24 aforesaid and together with the West 2 inches of the South 32.95 feet of the North 93.03 feet of said Lot 26 (except the West 3.25 feet) in the City of Chicago in Cook County, Illinois.

WHEREAS, the above described real estate is now improved with an apartment building containing residential apartment units, which building is commonly known as 73 East Elm Street, Chicago, Illinois; and

WHEREAS, it is the desire and intention of the Trustee to enable said real estate together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon and all rights and privileges belonging or otherwise pertaining thereto, (hereinafter called the "property"), to be owned by Trustee and by each successor in interest of Trustee, under that certain type or method of ownership commonly known as "CONDOMINIUM", and to submit the property to the provisions of the "Condominium Property Act" of the State of Illinois as amended from time to time; and

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WHEREAS, the Trustee has elected to establish, for its benefit and for the mutual benefit of all future owners or occupants of the property, or any part thereof, which shall be known as "The 73 East Elm Street Condominium", certain easements and rights in, over and upon said premises and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof; and

WHEREAS, the Trustee has further elected to declare that the several owners, mortgagees, occupants, and other persons acquiring any interest in the property shall at all times enjoy the benefits of, and shall at all times hold their interests subject to the rights, easements, privileges, and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of ownership and to facilitate the proper administration of such property and are established, for the purpose of enhancing and perfecting the value, desirability and attractiveness of the property.

NOW, THEREFORE, Trustee aforesaid, as the titleholder of the real estate hereinbefore described, and for the purposes above set forth, DECLARES AS FOLLOWS:

#### ARTICLE I

#### DEFINITIONS

ACT: Shall mean the Condominium Property Act of the State of Illinois;

DECLARATION: This instrument by which the property is submitted to the provisions of the Condominium Property Act of the State of Illinois, and such Declaration as from time to time amended.

PARCEL: The entire tract of real estate above described;

BUILDING: The building located on the Parcel containing the Units, as more specifically hereafter described in Article II;

PROPERTY: All the land, property and space comprising the Parcel, all improvements and structures constructed or contained therein or thereon, including the building and all easements, rights and appurtenances belonging thereto, and all fixtures and property intended for the mutual use, benefit or enjoyment of the unit owners.

UNIT: A part of the Property within the Building including one or more rooms, occupying one or more floors or a part or parts thereof, designed and intended for a one-family dwelling or such other uses permitted by this Declaration, and having lawful access to a public way, and more specifically described hereafter in Article II.

COMMON ELEMENTS: All portions of the Property except the Units.

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

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**OWNER:** The person or persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a Unit. For the purposes of Article VIII hereof, unless otherwise specifically provided therein, the word "Owner" shall include any beneficiary of a Trust, shareholder of a corporation or partner of a partnership holding legal title to a Unit.

**PLAT:** Shall mean the plat of survey of the Parcel and of all units in the property submitted to the provisions of the Act, which Plat is attached hereto as Exhibit "A" and by reference incorporated herein, made a part hereof, and recorded concurrently with the recording of this Declaration.

**OCCUPANT:** Person or persons, other than Owner, in possession of a Unit.

**BY-LAWS:** Each and every of the provisions for the administration of the property, including, but not limited to, assessment, maintenance, use, occupancy, sale, leasing and alienation, all as hereinafter set forth, or as the same may be from time to time duly amended, the same to have full force and effect whether applied to or by Trustee aforesaid, the Board of Managers, or the Association as hereinafter defined.

## ARTICLE II

### UNITS

1. **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, as provided in the Act. Each unit shall consist of the space enclosed and bounded by the interior surfaces of the floors and ceilings and perimeter walls of such unit as shown on the Plat. Except as provided by the Condominium Property Act, no Owner shall, by deed, plat 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 Exhibit "A".

2. **CERTAIN STRUCTURES NOT CONSTITUTING PART OF A UNIT.** No owner shall own any pipes, wires, conduits, public utility lines or structural components running through his Unit and serving more than his Unit except as a tenant in common with all other Owners.

## ARTICLE III

### COMMON ELEMENTS

1. **DESCRIPTION:** Except as otherwise in this Declaration provided, the Common Elements shall consist of all portions of the Property except the Units. Without limiting the generality of the

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foregoing, the Common Elements shall include the land, outside walks and driveways, landscaping, stairways, entrances and exits, elevators, halls, courtyards, lobbies, corridors, laundry, storage areas, janitor's or custodian's apartment, basement, roof, structural parts of the Building, parking facilities, pipes, ducts, flues, chutes, conduits, wires and other utility installations to the outlets, and such component parts of walls, floors and ceilings as are not located within the Units.

2. OWNERSHIP OF COMMON ELEMENTS. Each Owner shall own an undivided interest in the Common Elements as a tenant in common with all the other Owners of the Property, and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements for all purposes incident to the use and occupancy of his Unit as a place of residence, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with his Unit. The extent or amount of such ownership shall be expressed by a percentage amount and, once determined, shall remain constant, and may not be changed without unanimous approval of all Owners. The Trustee has so determined each Unit's corresponding percentage of ownership in the Common Elements as set forth in Exhibit "B" attached hereto.

3. COMMON EXPENSES. Each unit owner shall pay his proportionate share of the expenses of maintenance, repair, replacement, administration and operation of the Common Elements, which expenses are hereinafter referred to collectively as "Common Expenses." Such proportionate share shall be in the same ratio as his percentage of ownership in the Common Elements as set forth in Exhibit "B". Payment thereof shall be in such amount and at such times as may be provided by the By-Laws. In the event of the failure of a unit owner to pay such proportionate share when due, the amount thereof shall constitute a lien on the interest of such unit owner, as provided by the Act, provided however, that such lien shall be subordinate to the lien of a prior recorded first mortgage on the interest of such Unit Owner, owned or held by a bank, insurance company or savings and loan association, or other lender, except for the amount of the proportionate share of common expenses which become due and payable from and after the date on which the said mortgage owner or holder either takes possession of the unit, accepts a conveyance of any interest therein (other than as security), or files suit to foreclose its mortgage.

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#### ARTICLE IV

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

1. SUBMISSION OF PROPERTY TO "CONDOMINIUM PROPERTY ACT" The Property is hereby submitted to the provisions of the "Condominium Property Act" of the State of Illinois. The provisions of said Act, and each of them, are hereby expressly incorporated herein by this reference thereto as though the same were fully hereinafter set forth, provided however, that wherever the Act or any portion thereof shall conflict or be otherwise inconsistent with any of the terms in this Declaration set forth, the provisions of this Declaration unless expressly prohibited by said Act, shall prevail.

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

3. EASEMENTS. (a) Encroachments. In the event that, by reason of the construction, settling or shifting of the Building, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements or any other Unit, or, if by reason of the design or construction of any Unit, it shall be necessary or advantageous to an Owner to use or occupy any portion of the Common Elements for any reasonable use appurtenant to said Unit, which will not unreasonably interfere with the use or enjoyment of the Common Elements by other Unit Owners, or, if by reason of the design or construction of utility and ventilation systems, any main pipes, ducts or conduits serving more than one Unit encroach or shall hereafter encroach upon any part of any Unit, then in such event, valid easements for the maintenance of such encroachment and for such 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 Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Property by the other Owners or if it occurred due to the wilful conduct of any Owner.

(b) UTILITY EASEMENTS. The Illinois Bell Telephone Company, Commonwealth Edison Company and all other public utilities serving the Property are hereby granted the right to lay, construct, renew, operate and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into the through the Common Elements for the purpose of providing utility services to the Property.

(c) STORAGE AND LAUNDRY AREAS. The storage and laundry areas in the Building outside of the respective Units, shall be part of the Common Elements, and exclusive use, possession and right to the income, profits and avails thereof if any, of such area shall be allocated among the respective Owners in such manner and subject to such rules and regulations as the Trustees, or the Board of Managers constituted as hereinafter provided, may prescribe. Each Owner shall be responsible for his personal property in the storage area. The Board of Managers and the Association shall not be considered the bailee of such personal property and shall not be responsible for any loss or damage thereto whether or not due to the negligence of the Board of Managers and/or the Association.

(d) EASEMENTS TO RUN WITH LAND. All easements and rights described herein are easements, appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the Property, or any part or portion thereof. Reference in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Article, or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantee, mortgagees and trustees of such Unit Ownerships as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

#### ARTICLE V

#### ADMINISTRATION

1. ADMINISTRATION OF PROPERTY. The direction and administration of the Property shall be vested in a Board of Managers (hereinafter referred to as the "Board"), consisting of five persons who shall be elected in the manner hereinafter provided. Each member of the Board shall be one of the Owners or a spouse of an Owner and shall reside on the Property; provided, however, that in the event an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any officer or director of such corporation, partner of such partnership, beneficiary of such trust, or manager of such legal entity, shall be eligible to serve as a member of the Board, provided, that such person (excepting a Board member nominated by the Trustee) resides on the property.

2. ASSOCIATION. The Trustee, upon the sale of one or more Units, and prior to the election of the first Board of Managers, and the Board of Managers at any time thereafter, may cause to be incorporated a not-for-profit corporation under the General Not-For Profit Corporation Act of the State of Illinois, to be called "The 73 East Elm Street Condominium Association" or a name similar thereto, which corporation (herein referred to as the "Association") shall be the governing body for all the Owners for the maintenance, repair, replacement, administration and operation of the Property. The Board of Directors of the Association shall be deemed to be the "Board of Managers" referred to herein and in the Condominium Property Act. Upon the formation of such Association, every Owner shall be a member therein, which membership shall automatically terminate upon the sale, transfer or other disposition by such member of his Unit Ownership, at which time the new Owner shall automatically become a member therein. The association may issue certificates evidencing membership therein.

3. VOTING RIGHTS. There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Unit Owners. Such person shall be known and hereinafter referred to as a "voting member." Such voting member may be the Owner or one of the group composed of all the Owners of a Unit Ownership, or may be some person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner. Such designation shall be made in writing to the Board and shall be revocable at any time if actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Owner or Owners. Any or all of such Owners may be present at any meeting of the voting members and (those constituting a group acting unanimously) may vote or take any other action as a voting member either in person or by proxy. The total number of votes of all voting members shall be 100, and each Owner or group of Owners shall be entitled to the number of votes equal to the total of the percentage of ownership in the Common Elements applicable to his or their Unit Ownership as set forth in Exhibit "B". Trustee shall be the voting member with respect to any Unit Ownership owned by the Trustee.

4. MEETINGS. (a) Meetings of the voting members shall be held at the Property or at such other place in Cook County, Illinois, as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of the voting members having a majority of the total votes, shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the voting members at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes present at such meeting.

(b) ANNUAL MEETING. The initial meeting of the voting members shall be held upon ten (10) days' written notice given by the Trustee. Such written notice may be given at any time after at least fifty-five (55%) per cent of the Units are sold but must be given not later than thirty (30) days after forty (40) of the Units are sold. Thereafter, there shall be an annual meeting of the voting members of the first Tuesday of April following such initial meeting, and on the first Tuesday of April of each succeeding year thereafter at 7:30 p.m., or at such other reasonable time or date (not more than thirty (30) days after such date) as may be designated by written notice of the Board delivered to the voting members not less than ten (10) days prior to the date fixed for said meeting.

(c) SPECIAL MEETINGS. Special meetings of the voting members may be called at any time for the purpose of considering matters which, by the terms of this Declaration, require the approval of all or some of the voting members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by a majority of the Board, or by the voting members having one-fourth (1/4) of the total votes and delivered not less than ten (10) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

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5. NOTICES OF MEETINGS. Notices of meetings required to be given herein may be delivered either personally or by mail to the persons entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice, or to the Unit of the Owner with respect to which such voting right appertains, if no address has been given to the Board.

6. BOARD OF MANAGERS. (a) At each annual meeting, the voting members shall, by a majority of the total votes present at such meeting, elect a Board of Managers for the forthcoming year, consisting of five (5) owners, except that until 51% of the Units are occupied by individual Unit Owners four (4) members of the Board shall be elected by the Trustees; until One Hundred (100%) per cent of the units are occupied by individual Unit Owners three (3) members of the Board shall be elected by Trustees; thereafter each member of the Board must reside on the property and shall be elected by Unit Owners as aforesaid. Three (3) members shall constitute a quorum. Members of the Board shall serve, without compensation, for a term of one (1) year or until their successors are elected. Vacancies in the Board may be filled by unanimous vote of the remaining members thereof. Except as otherwise provided in this Declaration, the property shall be managed by the Board and the Board shall act by majority vote of those present at its meetings when a quorum exists. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt.

(b) The Board shall elect from among its members, a President, who shall preside over both its meetings and those of the voting members, a Secretary who shall keep the minutes of all meetings of the Board and of the voting members and who shall, in general, perform all the duties incident to the office of secretary, and a Treasurer to keep the financial records and books of account.

(c) Any Board member may be removed from office by affirmative vote of the voting members having at least two-thirds (2/3) of the total votes, at any special meeting called for the purpose. A successor to fill the unexpired term of a Board member removed may be elected by majority vote of the voting members at the same meeting or any subsequent meeting called for that purpose.

7. GENERAL POWERS OF THE BOARD. The Board for the benefit of all the Owners, shall have the following powers and shall acquire and shall pay for out of the maintenance fund hereinafter provided for, the following:

(a) Water, waste removal, electricity and telephone and other necessary utility service for the Common Elements and (if not separately metered or charged) for the Units.

(b) A policy or policies of insurance insuring the Common Elements and the Units against loss or damage by the perils of fire, lightning and those contained in the extended coverage, vandalism and malicious mischief endorsements, for the full insurable replacement value of the Common Elements and the Units



written in the name of, and the proceeds thereof shall be payable to the Association, if any, or the Members of the Board, as Trustees for each of the Owners in the percentages established in Exhibit "B". Prior to obtaining any such policy or policies of insurance, or any renewal thereof, the Board may obtain an appraisal from a qualified appraiser for the purpose of determining the full replacement value of the Common Elements and the Units for the amount of insurance to be effected pursuant hereto. The cost of any and all such appraisals shall be common expenses. Each Owner shall notify the Board in writing of any additions or alterations to his Unit resulting in increased value thereof and he shall be responsible for any deficiency in any insurance loss recovery resulting from his failure to so notify the Board. All such policies of insurance (1) shall contain standard mortgage clause endorsements in favor of the mortgagee or mortgagees of each Unit, if any, as their respective interests may appear, (2) shall provide that the insurance, as to the interest of the Board, shall not be invalidated by any act of neglect of any Owner, (3) 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 Owners elect to sell the Property or remove the Property from the provisions of the Condominium Property Act, and (4) shall contain an endorsement to the effect that such policy shall not be terminated for non-payment 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, any losses under such policies of insurance shall be payable and all insurance proceeds recovered thereunder shall be applied and disbursed in accordance with the provisions of this Declaration and the Condominium Property Act. The Board may engage the services of a bank or trust company authorized to do trust business in Illinois and having a capital of not less than \$5,000,000.00 to act as Insurance Trustee and to receive and disburse the insurance proceeds resulting from any loss upon such terms as the Board shall determine consistent with the provisions of this Declaration. In the event the lowest of three (3) bids from reputable contractors for making all repairs required by any such loss shall exceed \$50,000.00, the Board upon written demand of the mortgagee of any Unit shall engage the services of an Insurance Trustee as aforesaid. The fees of such Insurance Trustee shall be common expenses.

(c) Comprehensive, public liability and property damage insurance in such limits as the Board shall deem desirable, insuring the members of the Board, the managing agent, if any, their agents and employees, and the Owners including Trustee, from any liability in connection with the Common Elements or the streets and sidewalks adjoining the Property. Such insurance coverage shall also cover cross liability claims of one insured against another.

(d) Workman's compensation insurance as may be necessary to comply with applicable laws and such other forms of insurance as the Board in its judgment shall elect to effect.

(e) The services of any person or firm employed by the Board and to engage the services of a manager or managing agent who shall manage and operate the property and Common Elements thereof for all of the Unit Owners upon such terms and for such compensation and with such authority as the Board may approve.

(f) Landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the Common Elements (but not including the interior surfaces of the Units and of the hallway doors and windows appurtenant thereto, which the Owners themselves shall paint, clean, decorate, maintain and repair) and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and property, and the Board shall have the exclusive right and duty to acquire the same for the Common Elements.

(g) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations or assessments which the Board is required to secure or pay for pursuant to the terms of this Declaration or by law, of which in its opinion shall be necessary or proper for the maintenance and operation of the Property as a first class condominium apartment building, or for the enforcement of these restrictions.

(h) 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 Owners. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging the same, and any costs incurred by the Board by reason of said lien or liens shall be specially assessed against said Owners.

(i) 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 an 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 Owner, provided that the Board shall levy a special assessment against such Owner for the cost of said maintenance or repair.

(j) The Board may by unanimous vote engage the services of an agent to manage the property to the extent deemed advisable by the Board.

(k) The Board or its agents may enter any Unit when necessary in connection with any maintenance or construction for which the Board is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board at the expense of the maintenance fund.

(l) The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the maintenance fund any structural alterations, capital additions to, or capital improvements of the Common Elements (other than for purposes of replacing or restoring portions of the Common Elements, subject to all the provisions of this Declaration) requiring an expenditure in excess of Three Thousand Dollars (\$3,000.00) without in each case the prior approval of the voting members holding two-thirds (2/3) of the total votes.

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

(n) The Board, at the direction of the voting members having two-thirds (2/3) of the total votes, may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and Occupants of the Property. Written notice of such rules and regulations shall be given to all Owners and Occupants and the entire Property shall at all times be maintained subject to such rules and regulations.

(o) The Board, by vote of the voting members having Two-thirds (2/3) of the total votes, may elect to have the cost of any or all of the goods and services described in subsection (a) above, assessed specially to each Owner in proportion to his use of or benefit from such goods and services.

(p) The Board, by vote of at least two-thirds (2/3) of the voting members shall have the authority to lease or to grant licenses or concessions with respect to any part of the Common Elements, subject to the terms of this Declaration.

(q) Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all the Owners or any of them.

(r) Each Owner shall be responsible for his own insurance on the contents of his own unit and his adding, alterations or improvements thereto and decorating, furnishings, personal property therein and his personal property stored elsewhere on the property and his personal liability all to the extent not covered by fire and liability insurance for all of the Unit Owners obtained as a part of the common expenses.

(s) The Board, upon affirmative vote of not less than a majority of the Owners right to seek relief from and in connection with the assessment or levy of any taxes, special assessments or charges and to charge and collect all expenses incurred therewith as common expenses. The aforesaid shall permit the Board to contest the validity of any real estate taxes or special assessments against any one unit or more with the therefore being deemed a common expense.

8. LIABILITY OF THE BOARD OF MANAGERS: Neither the members of the Board of Managers nor the officers of the Association shall be liable to the 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

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found by a court to constitute gross negligence or fraud. The owners shall indemnify and hold harmless each of the members of the Board of Managers and each of the officers of the Association against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board of Managers and officers of the Association on behalf of the 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 in settlement) reasonably incurred in connection with the defense of any civil action, suit or proceeding, whether civil, criminal, administrative, or other, in which any Member of the Board of Managers or officers of the Association may be involved by virtue of such person's 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 person's 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 Owner arising out of any contract made by or other acts of the Board of Managers or officers of the Association, or out of the aforesaid indemnity in favor of the Members of the Board of Managers and officers of the Association shall be limited to such proportion of the total liability hereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all the owners in the Common Elements. Every Agreement made by the Board of Managers or by the managing agent on behalf of the Owners shall provide that the Members of the Board of Managers, or the managing agent, as the case may be are acting only as agents for the owners, and shall have no personal liability thereunder (except as owners) and that such 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 Owners in the Common Elements.

#### ARTICLE VI

##### ASSESSMENTS-MAINTENANCE FUND

##### 1. UNIT MAINTENANCE, REPAIRS AND REPLACEMENTS:

(a) Each Unit Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own unit; provided, however, such maintenance, repairs and replacements of the Common Elements as may be required for the functioning of the heating system and the plumbing within

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the unit, and for the bringing of water, gas and electricity to the unit, shall be furnished by the Association as part of the common expenses. Maintenance, repairs and replacements of the refrigerators, ranges and other kitchen appliances and lighting fixtures and other electrical appliances of any unit owner shall be at the expense of such unit owner. Maintenance, repairs and replacements of the Common Elements shall be furnished by the Association as part of the Common expenses. The Association may provide, by its rules and regulations, for ordinary maintenance and minor repairs and replacements to be furnished to units by Building personnel at common expense.

(b) If, due to the negligent act or omission of a unit owner, or of a member of his family or household pet or of a guest or other authorized occupant or visitor of such unit owner, damage shall be caused to the Common Elements or to a unit or units owned by others, or if maintenance, repairs or replacements shall be required which would otherwise be at the common expense, then such unit owner shall pay for such damage, and such maintenance, repairs and replacements, as may be determined by the Association. Maintenance, repairs and replacements to the Common Elements or the units shall be subject to the rules and regulations of the Association.

(c) 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 the Common Elements, then the use thereof by the individual unit owners shall be subject to the rules and regulations of the Association. The authorized representatives of the Association or Board of Directors, or of the manager or managing agent for the Building, shall be entitled to reasonable access to the individual units as may be required in connection with maintenance repairs or replacements of or to the Common Elements or any equipment, facilities or fixtures affecting or serving other units or the Common Elements. Each unit owner shall be responsible for the maintenance, repair and replacement of all windows of his unit.

2. ESTIMATION OF EXPENSES. (a) Each year on or before December 1st, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, and shall on or before December 15th thereafter notify each Owner in writing as to the amount of such estimate, with reasonable itemization thereof. The annual budget shall also take into account the estimated net available cash income for the year from the operation or use of the Common Elements. Said "estimated cash requirements" shall be assessed to the Owners according to each Owner's percentage of ownership in the Common Elements as set forth in Exhibit "a" attached hereto. On or before January 1st of the ensuing year, and the 1st day of each and every month of said year, each Owner shall be obligated to pay to the Board or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this paragraph. On or before the date of the annual meeting of each calendar year, the

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Board shall supply to all Owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited, according to each Owner's percentage of ownership in the Common Elements, to the next annual installments due from Owners under the current year's estimate, until exhausted, and any net shortage shall be added, according to each Owner's percentage of ownership in the Common Elements, to the installment due in the succeeding six months after rendering of the accounting.

(b) The Board shall build up and maintain a reasonable reserve for contingencies and replacements, hereinafter referred to as the "Maintenance Fund." Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year, shall be charged first against such reserve. If said "estimated cash requirement" proves inadequate for any reason, including nonpayment of any Owner's assessment, the Board may at any time levy a further assessment which shall be assessed to the Owners according to each Owner's percentage of ownership in the Common Elements. The Board shall serve notice by such further assessment on all Owners by a statement in writing giving the amount and reasons therefor and such further assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment. All Owners shall be obligated to pay and adjusted monthly amount.

(c) When the first Board elected hereunder takes office, it shall determine the "estimated cash requirement," as hereinabove defined, for the period commencing thirty (30) days after said election and mailing an assessment list, of the calendar year in which said assessment begins. Assessments shall be levied against the Owners during said period as provided in paragraph (a) of this Article.

(d) In the event of a delay of the Board to prepare or serve the annual or adjusted estimate on the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whatever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period and until the monthly maintenance payment due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

(e) The Board shall keep full and correct books of account in chronological order of the receipt and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any

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other expenses incurred. Such records and the vouchers pertinent thereto shall be available for inspection by any Owner, or by his representative as designated and authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Owner. Upon ten (10) days' notice to the Board and payment of a reasonable fee, any Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

(f) All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessment as may be levied hereunder against less than all the Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Owners in the percentages set forth in Exhibit "B".

(g) If an Owner is in default in the monthly payment of the aforesaid charges, or assessments for thirty (30) days, or if by reason of any other default or event whatever, hereinafter provided for, the members of the Board may bring suit for and on behalf of themselves and as representatives of all Owners, to enforce collection thereof or to foreclose the lien therefor as hereinafter provided; and there shall be added to the amount due, the costs of said suit and other fees and expenses together with legal interest and reasonable attorneys' fees to be fixed by the Court. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, costs and fees as above provided shall be and become a lien or charge against the Unit Ownership of the Owner involved when payable, and may be foreclosed by an action brought in the name of the Association, if any, or of the Board, as in the case of foreclosure of liens against real estate. Said lien shall take effect and be in force when and as provided in the "Condominium Property Act" of Illinois; provided, however, that any Mortgage or Trustee's Deed owned or held by any bank, insurance company, savings and loan association, or other lender, shall be subject as to priority after written notice to said lender of unpaid common expenses, only to the lien of all common expenses on the subject Unit Ownership which become due and payable subsequent to the date said lender either takes possession of the Unit, accepts a conveyance of any interest in the Unit Ownership, or has a receiver appointed in a suit to foreclose his lien. Any lender may from time to time request in writing a written statement from the Board setting forth the unpaid common expenses with respect to the Unit Ownership covered by such mortgage or Trustee's Deed, and unless the request shall be complied with within twenty (20) days, all unpaid common expenses which become due prior to the date of the making of such request shall be subordinate to the lien thereof.

(h) It is understood that real estate taxes are to be separately taxes to each Unit Owner for his unit and his corresponding percentage of ownership in the Common Elements, 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.

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(i) Amendments to this Article VI shall only be effective upon unanimous written consent of the Owners, and their Mortgagees. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Elements or abandonment of his Unit.

#### ARTICLE VII

#### COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

1. USE OF UNITS AND COMMON ELEMENTS. The units and Common Elements shall be occupied and used as follows:

(a) No part of the property shall be used for other than housing and related common purposes for which the Property was designed. Each Unit or any two adjoining Units used together shall be used as a residence for a single family or not more than two non-related persons, or such other uses permitted by this Declaration and for no other purpose. That part of the Common Elements separating any two adjoining Units used together as aforesaid may be altered to afford ingress and egress to and from such adjoining units in such manner and upon such conditions as shall be determined by the Board in writing.

(b) There shall be no obstruction of the Common Elements, without the prior consent of the Board except as hereinafter expressly provided. Each Owner shall be obligated to maintain and keep in good order and repair his own Unit, together with the interior surfaces thereof, and its appurtenances as hereinbefore provided.

(c) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the Building, or contents thereof, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Building, or contents thereof, or which would be in violation of any law. No waste shall be committed in the Common Elements.

(d) Each Owner shall be responsible for his own insurance on his personal property in his own Unit, his personal property stored elsewhere on the Property and his personal liability to the extent not covered in the liability insurance for all the Owners obtained by the Board as hereinbefore provided.

(e) Owners shall not cause or permit anything to be placed on the outside walls of the Building and no sign, awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior consent of the Board.

(f) No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred, or kept in any Unit or in the Common Elements, except that dogs, cats, or other household pets may be kept in Units, subject to rules and regulations adopted by the Board, provided that they are not kept, bred, or maintained

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for any commercial purpose; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon three (3) days' written notice from the Board.

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

(h) Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Building except as is otherwise provided herein.

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

(j) 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 that baby carriages, bicycles and other personal property may be stored in any common storage area designated for that purpose.

(k) No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designed for profit, altruism, exploration or otherwise shall be conducted, maintained or permitted in any Unit.

(l) No "For Sale" or "For Rent" signs, advertising or other displays shall be maintained or permitted on any part of the property except at such location and in such form as shall be determined by the Board. The right, however, is reserved by the Trustee, its agents, beneficiaries and persons authorized to direct the Trustee to place and maintain on the property until the sale of the last Unit all models, sales offices, advertising signs and banners and lighting in connection therewith at such locations and in such forms as shall be determined by the Trustee. There is also reserved unto the Trustee, its agents, beneficiaries and persons authorized to direct the Trustee and prospective Unit purchaser, the right of ingress and egress to the Common Elements for such Unit sales purposes.

(m) The Unit restrictions in paragraphs (a) and (k) of this Article VII shall not, however, be construed in such a manner as to prohibit an Owner from: (a) maintaining his personal professional library therein; (b) keeping his personal, business or professional records or accounts therein; or (c) handling his personal, business or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal residential use and not in violation of paragraphs (a) or (k) of this Article VII.

## ARTICLE VIII

### SALE, LEASING OR OTHER ALIENATION

1. **SALE OR LEASE.** Any Owner other than the Trustee who wishes to sell or lease his Unit Ownership (or any lessee of any Unit wishing to assign or sublease such Unit) shall give to the Board not less than thirty (30) days' prior written notice of the terms of any contemplated sale or lease, together with the name, address and financial and character references of the proposed purchaser or lessee and such other information concerning the proposed purchaser or lessee as the Board may reasonably require. The members of the Board acting on behalf of the other Owners shall at all times have the right and option to purchase or lease such Unit Ownership upon the same terms, which option shall be exercisable for a period of thirty (30) days following the date of receipt of such notice. If said option is not exercised by the Board within said (30) thirty days, the Owner (or lessee) may, at the expiration of said thirty-day period and at any time within ninety (90) days after the expiration of said period, contract to sell or lease (or sublease or assign) such Unit Ownership to the proposed purchaser or lessee named in such notice upon the terms specified therein. If the Owner (or lessee) fails to close said proposed sale or lease transaction within said ninety (90) days, the Unit Ownership shall again become subject to the Board's right of first refusal as herein provided.

2. **GIFT.** Any Owner other than the Trustee who wishes to make a gift of his Unit Ownership or any interest therein shall give to the Board not less than ninety (90) days' written notice of his or her intent to make such gift prior to the contemplated date thereof, together with the name, address and financial and character references of the intended donee and such other information concerning the intended donee as the Board may reasonably require. The members of the Board acting on behalf of the other Owners, shall at all times have the first right and option to purchase such Unit Ownership or interest therein for cash at fair market value to be determined by arbitration as herein provided, which option shall be exercisable until the date of expiration as provided herein. Within fifteen (15) days after receipt of said written notice by the Board, the Board and the Owner desiring to make such gift may each appoint a qualified real estate appraiser to act as arbitrators. The two arbitrators so appointed shall, within ten (10) days after their appointment, appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days after the appointment of said third arbitrator, the three arbitrators shall determine, by majority vote, the fair market value of the Unit Ownership or interest therein which the Owner contemplates conveying by gift, and shall thereupon give written notice of such determination to the Owner and the Board. If the Board shall fail to select an appraiser as aforesaid the Board's option hereunder shall be deemed waived. If the Owner desiring to make such gift shall fail to select an appraiser, then the appraiser designated by the Board shall make the appraisal. The Board's option to purchase the Unit Ownership or interest therein shall expire forty-five (45) days after the date of receipt by it of written notice of such determination of fair market value. The Board shall be deemed to have exercised its option if it tenders the required sum of money to the Owner desiring to make such gift within said forty-five (45) day period.

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3. DEVISE. In the event any Owner dies leaving a will devising his Unit Ownership, or any interest therein, and said will is admitted to probate, the members of the Board acting on behalf of the other Owners, shall have a like option (to be exercised in the manner hereinafter set forth) to purchase said Unit Ownership, or interest therein, either from the devisee or devisees thereof named in said will, or if a power of sale is conferred by said will upon the personal representative named therein, from the personal representative acting pursuant to said power, for cash at fair market value which is to be determined by arbitration as herein provided. Within sixty (60) days after the appointment of a personal representative for the estate of the deceased Owner, the Board may appoint a qualified real estate appraiser to act as an arbitrator. Within ten (10) days after the appointment of said arbitrator, the two so appointed shall appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days thereafter, the three arbitrators shall determine, by majority vote, the fair market value of the Unit Ownership, or interest therein, devised by the deceased Owner, and shall thereupon give written notice of such determination to the Board and said devisee or devisees, or personal representative, as the case may be. If the Board shall fail to select an appraiser as aforesaid the Board's option hereunder shall be deemed waived. If said devisee or devisees, or personal representative, as the case may be, shall fail to select an appraiser, then the appraiser designated by the Board shall make the appraisal. The Board's right to purchase the Unit Ownership, or interest therein, at the price determined by the appraisal shall expire sixty (60) days after the date of receipt by it of such notice if the personal representative of the deceased Owner is empowered to sell, and shall expire eight (8) months after the appointment of a personal representative who is not so empowered to sell. The Board shall be deemed to have exercised its option if it tenders the required sum of money to said devisee or devisees or to said personal representative, as the case may be, within the said option periods.

4. INVOLUNTARY SALE. In the event any Unit Ownership or interest therein is sold at a judicial or execution sale (other than a mortgage foreclosure sale) the person acquiring title through such sale shall, before taking possession of the Unit so sold, give thirty (30) days' written notice to the Board of his intention so to do, whereupon the Board acting on behalf of the Owners shall have an irrevocable option to purchase such Unit Ownership or interest therein at the same price for which it was sold at said sale. If said option is not exercised by the Board within said thirty (30) days after receipt of such notice, it shall thereupon expire and said purchaser may thereafter take possession of said Unit. The Board shall be deemed to have exercised its option if it tenders the required sum of money to the purchaser within said thirty (30) day period.

(b) In the event any Owner shall default in the payment of any moneys required to be paid under the provisions of any mortgage or trust deed against his Unit Ownership, the Board shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefor against such Unit Ownership, which lien shall have the same force and effect and may be enforced in the same manner as provided in Article VI hereof.

5. CONSENT OF VOTING MEMBERS. The Board shall not exercise any option hereinabove set forth to purchase any Unit Ownership or interest therein without the prior written consent of the voting members having seventy-five (75%) per cent of the total votes. The members of the Board or their duly authorized representatives, acting on behalf of the other Owners, may bid to purchase at any sale of a Unit Ownership or interest therein of any Owner living or deceased, which said sale is held pursuant to an order or direction of a court, upon the prior written consent of the voting members having seventy-five (75%) per cent of the total votes, which said consent shall set forth a maximum price which the members of the Board or their duly authorized representatives are authorized to bid and pay for said Unit Ownership or interest therein.

6. RELEASE OR WAIVER OF OPTION. Upon the written consent of at least four-fifths (4/5) of the Board members, any of the options contained in this Article VIII may be released or waived and the Unit Ownership or interest therein which is subject to an option set forth in the Article may be sold, conveyed, leased, given or devised free and clear of the provisions of this Article.

7. PROOF OF TERMINATION OF OPTION. A certificate executed and acknowledged by the acting Secretary of the Board stating that the provisions of this Article VIII as hereinabove set forth have been met by an Owner, or duly waived by the Board, and that the rights of the Board hereunder have terminated, shall be conclusive upon the Board and the Owners in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner who has in fact complied with the provisions of this Article or in respect to whom the provisions of this Article have been waived, upon request, at a reasonable fee, not to exceed Ten Dollars (\$10.00).

8. FINANCING OF PURCHASE UNDER OPTION. (a) Acquisition of Unit Ownerships or any interest therein under the provisions of this Article shall be made from the maintenance fund aforesaid. If said fund is insufficient, the Board shall levy an assessment against each Owner in the ratio that his percentage of ownership in the Common Elements as set forth in Exhibit "B" bears to the total of all such percentages applicable to Units subject to said assessment, which assessment shall become a lien and be enforceable in the same manner as provided in paragraph (g) of Article VI hereof.

(b) The members of the Board, in their discretion, may borrow money to finance the acquisition of any Unit Ownership or interest therein authorized by this Article; provided, however, that no financing may be secured by an encumbrance or hypothecation of any portion of the Property other than the Unit Ownership or interest therein to be acquired.

9. TITLE TO ACQUIRED INTERESTS. Unit Ownerships or interests therein acquired pursuant to the Terms of this Article shall be held of record in the name of the members of the Board of Managers and their successors in office, or such nominee as they shall designate, for the benefit of all the Owners. Said Unit Ownerships or interests therein shall be sold or leased by the members of the Board in such manner as the Board shall determine

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without complying with the foregoing provisions relating to the Board's right of first refusal. All proceeds of such sale and/or leasing shall be deposited in the maintenance fund and credited to each Owner in the same proportion in which the Board could levy a special assessment under the terms of paragraph 8 (a) of this Article.

10. EXCEPTIONS TO BOARD'S RIGHT OF FIRST REFUSAL. The Board's right of first refusal as provided in Sections 1 2 and 3 of this Article VIII shall not apply to any sale, lease, gift, devise or other transfer as between Co-Owners of the same Unit, to the spouse, or to any lawful children of the Owner, or any one or more of them, or to any trustee of a trust, the sole beneficiary or beneficiaries of which are the Owner, the spouse or lawful child of the Owner, or any one or more of them.

11. COMPLIANCE WITH HOUSING LAWS. Nothing hereinbefore contained shall be construed as having the intent to contravene, violate or otherwise breach any of the provisions of existing Federal, State or Local Housing or Occupancy laws, it being the intention of the Trustee at all times to provide for the operation of a desirable, first-class, joint living project in full compliance with pertinent laws, statutes or regulations.

#### ARTICLE IX

##### DAMAGE OR DESTRUCTION AND RESTORATION OF BUILDING

1. SUFFICIENT INSURANCE. In the event the improvements forming a part of the Property, or any portion thereof, including any Unit, 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, shall be sufficient to pay the cost of repair, restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken and the insurance proceeds shall be applied by the Board or the payee of such insurance proceeds in payment therefor; provided, however, that in the event within thirty (30) days after said damage or destruction, the Owners elect either to sell the Property as hereinafter provided in Article X hereof or to withdraw the Property from the provisions of this Declaration, and from the provisions of the "Condominium Property Act" as therein provided, then such repair, restoration or reconstruction shall not be undertaken. In the 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 Owners according to each Owner's percentage of ownership in the Common Elements as set forth in Exhibit "B" after first paying out of the share of each Owner the amount of any unpaid liens on his Unit, in the order of the priority of such liens.

2. INSUFFICIENT INSURANCE. In the event the Property or the improvements thereon so damaged or destroyed are not insured against the peril causing the loss or damage, or the insurance proceeds are not sufficient to pay the cost of repair, restoration or reconstruction, and the Owners and all other parties in interest do not voluntarily make provision for reconstruction of the improvements within one hundred and eighty (180) days after said damage or destruction, then the provisions of the "Condominium Property Act; in such event shall apply.

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3. DEFINITION. Repair, restoration or reconstruction of the improvements as used in this Article, means restoring the improvements to substantially the same condition in which they existed prior to the damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as then existed.

#### ARTICLE X

##### SALE OF THE PROPERTY

The owners by affirmative vote of at least 75% of the total vote, at a meeting duly called for such purpose, may elect to sell the Property as a whole, such action shall be binding upon all Owners, and it shall thereupon become the duty of every 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 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 a fair appraisal, less the amount of any unpaid assessments or charges due and owing from such Owner. In the absence of agreement on an appraiser, such Owner and the Board may each select an appraiser and two so selected shall select a third, and the fair market value, as determined by a majority of the three so selected, shall control. If either party shall fail to select an appraiser, then the appraiser designated by the other party shall make the appraisal.

#### ARTICLE XI

##### REMEDIES FOR BREACH OF COVENANTS

##### RESTRICTIONS AND REGULATIONS

1. ABATEMENT AND ENJOINTMENT. The violation of any restriction or condition or regulation adopted by the Board, or the breach of any covenant or provision herein contained, shall give the Board the right, in addition to the rights set forth in the next succeeding section: (a) to enter upon that part of the Property where such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the trustee, or its beneficiaries, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of eight (8%) per cent per annum until paid, shall be charged to and assessed against such defaulting 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 Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the Property. Any and all of such rights and remedies may be exercised at any time and from time to time cumulatively or other, by the Board.

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2. **INVOLUNTARY SALE.** If any Owner (either by his own conduct or by the conduct of any other occupant of his Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the regulations adopted by the Board, and such violation shall continue for thirty (30) days after notice in writing from the Board, or shall occur repeatedly during any thirty day period after written notice or request to cure such violation from the Board, then the Board shall have the power to issue to the defaulting Owner a ten day notice in writing to terminate the rights of said defaulting Owner to continue as an Owner and to continue to occupy, use or control his Unit and thereupon an action in equity may be filed by the members of the Board against the defaulting Owner for a decree of mandatory injunction against the Owner or Occupant or, subject to the prior consent in writing of any mortgagees having a security interest in the Unit Ownership of the defaulting Owner, which consent shall not be unreasonably withheld, then in the alternative a decree declaring the termination of the defaulting Owner's right to occupy, use or control the Unit owner by him on account of the breach of covenant, and ordering that the right, title and interest of the Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the defaulting Owner shall be enjoined and restrained from re-acquiring his interest in the Property at such judicial sale. 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 Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder of any liens, shall be paid to the Owner. Upon the confirmation of such sale, the purchaser thereof shall thereupon be entitled to a deed to the Unit Ownership and, subject to the Board's rights as provided in Section 4, Article VIII hereof, to immediate possession of the Unit sold and may apply to the Court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall provide, that the purchaser shall take the interest in the property sold, subject to this Declaration.

## ARTICLE XII

### GENERAL PROVISIONS

1. **RIGHTS OF TRUSTEE.** Until such time as the Board of Managers provided for in this Declaration is formed, the Beneficiaries of Trustee shall exercise the powers, rights, duties and functions of the Board.

2. **NOTICES TO MORTGAGEES OR LENDERS.** Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Unit Ownership shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Owner whose Unit Ownership is subject to such mortgage or trust deed. Any holders and owners of any mortgage or mortgages of record at the time of this Declaration is recorded shall be required to consent in writing to this Declaration.

3. **HOW NOTICE GIVEN.** Notices provided for in this Declaration and in the Condominium Property Act shall be in writing, and shall be addressed to the Board or Association, or any Owner, as the case may be at 73 East Elm Street, Chicago, Illinois,

(indicating thereon the number of the respective Unit if addressed to an Owner), or at such other address as herein provided. The Association or Board may designate a different address or addresses for notices to them respectively by giving written notice of such change of address to all Owners. Any owner may also designate a different address 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 acknowledgment of the receipt thereof, or, if, addressed to an Owner, when depositing in his mailbox in the Building or at the door of his Unit in the Building.

4. NOTICE TO ESTATE OR REPRESENTATIVE. Notices required to be given any devisee or personal representative of a deceased Owner may be delivered either personally or by mail to such party as his or its address appearing in the records of the court wherein the estate of such deceased Owner is being administered.

5. DEEDS, ETC., SUBJECTED TO DECLARATION. Each grantee of the Trustee, by the acceptance of a deed of conveyance, or each purchaser under Articles of agreement for Condominium Deed, 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 any interest or estate in the Property, and shall inure to the benefit of such Owner in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance.

6. FAILURE TO ENFORCE NO WAIVER. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

7. CHANGE, MODIFICATION OR RESCISSION. The provisions of Article III, Article V, Section 5 of Article VIII, and this paragraph 7 of Article XII 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 Board, all of the Owners and all mortgagees having bona fide liens of record against any Unit Ownerships. 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 Board, the Owners having at least 3/4ths of the total vote and containing an affidavit by an officer of the Board certifying that a copy of the change, modification or rescission has been mailed by certified mail to all mortgagees having bona fide liens or record against any Unit Ownership, no less than ten (10) days prior to the date of such affidavit. 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 provision in this Declaration may be changed, modified, or rescinded so as to conflict with the provisions of the "Condominium Property Act."

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8. **PARTIAL INVALIDITY.** The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration in whole or in part.

9. **RULE AGAINST PERPETUITIES.** If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory 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 years after the death of the survivor of the now living lawful descendants of Adlai E. Stevenson, III, United States Senator from Illinois and Charles H. Percy, United States Senator from Illinois.

10. **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 apartment building.

11. **OWNERSHIP BY LAND TRUSTEE.** In the event title to any Unit Ownership is conveyed to a land titleholding 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 beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performances of all agreements, covenants and undertakings chargeable or created under this Declaration against such Unit Ownership. No claim shall be made against any such titleholding 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 of any such trust or any transfers of title to such Unit Ownership.

12. **FORCIBLE ENTRY AND DETAINER.** In amplification of and in addition to the provisions contained in Article VI (g), in the event of any default of any owner, the Board of Managers shall have the rights and remedies hereinbefore provided including the right to take possession of such defaulting owner's interest and unit for the benefit of all other owners by an act for possession in the manner prescribed in the Forcible Entry and Detainer Act (Illinois Revised Statutes, Chapter 57).

THIS DECLARATION is executed by EXCHANGE NATIONAL BANK OF CHICAGO, as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and EXCHANGE NATIONAL BANK OF CHICAGO hereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this Declaration that the EXCHANGE NATIONAL BANK OF CHICAGO, as Trustee as aforesaid, and not personally, has joined in the execution of this Declaration for the sole purpose of subjecting the title

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holding interest and the trust estate under said Trust No. 27072 to the terms of this Declaration; that any and all obligations, duties, covenants and agreements of every nature herein set forth by EXCHANGE NATIONAL BANK OF CHICAGO, as Trustee aforesaid, to be kept and performed, are intended to be kept, performed and discharged by the beneficiaries under said Trust No. 27072, or their successors, and not by EXCHANGE NATIONAL BANK OF CHICAGO personally; and further, that no duty shall rest upon EXCHANGE NATIONAL BANK OF CHICAGO, either personally or as such Trustee, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation, express or implied, arising under the terms of this Declaration, except where said Trustee is acting pursuant to direction as provided by the terms of said Trust No. 27072, and after the Trustee has first been supplied with funds required for the purpose. In the event of conflict between the terms of this paragraph and of the remainder of the Declaration on any question of apparent liability or obligation resting upon said Trustee, the exculpatory provision hereof shall be controlling.

IN WITNESS WHEREOF, the said EXCHANGE NATIONAL BANK OF CHICAGO, as Trustee as aforesaid, and not individually, has caused its corporate seal to be affixed hereunto and has caused its name to be signed to these presents by its ~~(Assistant)~~ Vice President and attested by its ~~(Assistant)~~ Secretary, this 20 day of SEPTEMBER, 1973.

EXCHANGE NATIONAL BANK OF CHICAGO  
a National Banking Association, as  
Trustee, as aforesaid, and not  
individually

BY: W. C. Taylor  
(Assistant) Vice-President

ATTEST:

[Signature]  
(Assistant) Secretary  
Assistant Trust Officer

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STATE OF ILLINOIS)  
COUNTY OF COOK ) SS

EILEEN I. WEISBROD

I, EILEEN I. WEISBROD, a Notary Public in and for said County, in the State aforesaid, do hereby certify that C. C. AAPLAN, Vice-President - Trust Officer of EXCHANGE NATIONAL BANK OF CHICAGO, a Bank, and A. ROSEN, Assistant ~~Cashier~~ - Trust Officer of said Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President - Trust Officer and Assistant ~~Cashier~~ - Trust Officer respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Assistant ~~Cashier~~ - Trust Officer, as custodian of the corporate seal of said Bank, did affix the seal of said Bank to said instrument as said Assistant Cashier-Trust Officer's own free and voluntary act and as the free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND and Notarial Seal this 12th day of October, 1973.

Eileen I. Weisbrod  
Notary Public

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STATE OF FLORIDA  
COUNTY OF DADE

The undersigned, owners andholders of a Trust Deed dated October 16th, 1972 and recorded in the Office of the Recorder of Deeds of Cook County, Illinois on October 6th, 1972 as Document No. 22099063 made by the Exchange National Bank of Chicago, a National Banking Association, as Trustee under Trust Agreement dated October 1st, 1972 and known as Trust No. 27072 do hereby consent and approve this Declaration of Condominium Ownership and of Easements, Restrictions and Covenants.



CONTINENTAL MORTGAGE INVESTORS,  
a Massachusetts Business Trust

By Theodore C. Miller  
Theodore C. Miller  
Assistant Secretary

The name Continental Mortgage Investors is the designation of the Trustee for the time being under a Declaration of Trust dated November 29, 1951, as amended, and all persons dealing with Continental Mortgage Investors must look solely to the Trust property for the satisfaction of any claims against Continental Mortgage Investors as neither the Trustee, officers, agents or shareholders assume any personal liability for obligations entered into on behalf of Continental Mortgage Investors.

STATE OF Florida  
COUNTY OF Duval

On this the 2nd day of October, 1973,  
before me, the undersigned, a Notary Public in and for said  
County and State, personally appeared Theodore C. Miller  
to me known to be the Assistant Secretary of CONTINENTAL  
MORTGAGE INVESTORS, a Massachusetts Business Trust, who executed  
the foregoing instrument, and acknowledged the said instrument  
to be the free and voluntary act and deed of said Trust for the  
uses and purposes therein mentioned, and on oath stated that he  
is authorized to execute the said instrument and that the seal  
affixed is the seal of said Trust.

IN WITNESS WHEREOF, I hereunto set my hand and official  
seal.

Theodore C. Miller  
Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE  
MY COMMISSION EXPIRES SEP. 17, 1978  
USHERS PRODUCE CORPORATION



BOOK 97 OF PLATS PAGE 27 TO 33

HAS BEEN MICROFILMED

SEE JACKET FILE NO. 22511572

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EXHIBIT "B"

PERCENTAGES OF COMMON ELEMENTS

73 EAST ELM STREET CONDOMINIUM

<u>Unit</u>	<u>Common Elements</u>	<u>Unit</u>	<u>Common Elements</u>
1A	.0162	1B	.0161
2A	.0231	2B	.0229
3A	.0232	3B	.0229
4A	.0232	4B	.023
5A	.0238	5B	.0236
6A	.0239	6B	.0237
7A	.0240	7B	.0237
8A	.0241	8B	.0238
9A	.0241	9B	.0239
10A	.0242	10B	.0240
11A	.0243	11B	.0241
12A	.0244	12B	.0242
14A	.025	14B	.0243
3C	.0163	3D	.0162
4C	.0164	4D	.0163
5C	.0169	5D	.0167
6C	.017	6D	.0168
7C	.0171	7D	.0169
8C	.0172	8D	.017
9C	.0173	9D	.0171
10C	.0174	10D	.0171
11C	.0175	11D	.0172
12C	.0176	12D	.0173
14C	.0176	14D	.0174

<u>Unit</u>	<u>Common Elements</u>
1	.0022
2	.0022
3	.0022
4	.0022
5	.0022
6	.0022
7	.0022
8	.0022
9	.0022
10	.0032

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