

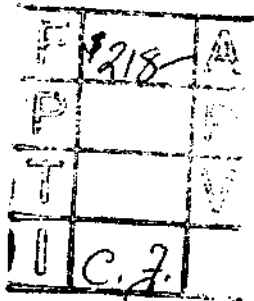
This instrument was prepared by  
and mail to:

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



Doc#: 0502639106  
Eugene "Gene" Moore Fee: \$218.00  
Cook County Recorder of Deeds  
Date: 01/26/2005 01:51 PM Pg: 1 of 4

MTC # 205 8004



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

**2158 N. DAMEN CONDOMINIUMS**

THIS DECLARATION made and entered into by J & J CONSULTANTS II, INC., an Illinois corporation (hereinafter referred to as "Declarant").

WITNESSETH THAT:

WHEREAS, the Declarant is the legal title holder of the following described real estate in the City of Chicago, County of Cook and State of Illinois:

The North 26.10 feet of Lot 23 in Block 1 in Sherman's Addition to Holstein in Section 31, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Address: 2158 North Damen Avenue, Chicago, Illinois

Permanent Index Number: 14-31-123-021-0000 (undivided - affects above described real estate and the adjacent and contiguous Lot 24)

45 PG

RECORDED FILE #218  
DATE 01-26-05 BY 61  
CR BY C. Feltz

WHEREAS, it is the desire and intention of the Declarant to enable the Property (as hereinafter defined) which includes, but is not limited to, said real estate together with the building, structure, improvements, and other permanent fixtures of whatsoever kind now or hereafter thereon, and all rights and privileges belonging or in anywise pertaining thereto to be owned by Declarant and by each successor in interest of Declarant, under that certain type of 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

WHEREAS, the Declarant, acting under direction of the parties authorized to direct the Declarant, has elected by this Declaration to establish, for the benefit of such Declarant and for the mutual benefit of all future unit owners or occupants of the Property, or any part thereof, which shall be known as

**2158 N. DAMEN CONDOMINIUMS, or**

such other name as may be subsequently adopted pursuant to the Act by the Developer or the Board, certain easements and rights in, over, and upon said real estate and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct, and maintenance thereof; and

WHEREAS, the Declarant has further elected by this Declaration to declare that the several unit owners, occupants, mortgagees, 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 co-operative 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, **J & J CONSULTANTS II, INC.**, an Illinois corporation, as the legal title holder heretofore described, and for the purposes above set forth, **DECLARES AS FOLLOWS:**

**ARTICLE I**  
**DEFINITIONS**

For purposes of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

(a) "Act" means the "Condominium Property Act," as amended from time to time, of the State of Illinois.

(b) "Declaration" means the instrument by which the Property is submitted to the provisions of the Act, as hereinafter provided, and such Declaration as from time to time amended.

(c) "Parcel" means the lot or lots, tract or tracts of land, described in the Declaration, submitted to the provisions of the Act.

(d) "Property" means all the land, property, and space comprising the Parcel, all improvements and structures erected, constructed or contained therein or thereon, including the building and all easements, rights, and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the unit owners, submitted to the provisions of this Act.

(e) "Unit" means a part of the Property designed and intended for any type of independent use.

(f) "Common Elements" means all portions of the Property except the units, including Limited Common Elements unless otherwise specified.

(g) "Person" means a natural individual, corporation, partnership, Declarant or other legal entity capable of holding title to real property.

(h) "Unit Owner" means the person or persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a unit.

(i) "Majority" or "majority of the unit owners" means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common elements. Any specified percentage of the unit owners means such percentage in the aggregate in interest of such undivided ownership.

(j) "Plat" means a plat or plats of survey of the Parcel and of all units in the Property submitted to the provisions of the Act, which may consist of a three-dimensional horizontal and vertical delineation of all such units.

(k) "Condominium Instruments" means all documents and authorized amendments thereto recorded pursuant to the provisions of the Act, including the Declaration, By-Laws, and Plat.

(l) "Common Expenses" means the proposed or actual expenses affecting the Property, including reserves, if any, lawfully assessed by the Board of Managers of the Unit owners' Association.

(m) "Reserves" means those sums paid by unit owners which are separately maintained by the Board of Managers for purposes specified by the Board of Managers or the condominium instruments.

(n) "Unit Owners' Association" or "Association" means the association of all unit owners, acting pursuant to By-Laws through its duly elected Board of Managers.

(o) "Purchaser" means any person or persons other than the Developer who purchase a unit in a bona fide transaction for value.

(p) "Developer" means any person who submits property legally or equitably owned by him to the provisions of the Act, or any person who offers units legally or equitably owned by him for sale in the ordinary course of his business, including any successor or successors to such Developer's entire interest in the property other than the purchaser of an individual unit.

(q) "Limited Common Elements" means a portion of the common elements 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. Any portion of the common elements which, by the terms of this Declaration or 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 owner or owners thereof shall be deemed a limited common element.

(r) "Building" means all structures, attached or unattached, containing one or more units.

(s) "Parking Area" means the outside area provided for parking automobiles as shown or referred to on the plat.

(t) "Parking Space" means a portion of the parking area intended for the outdoor parking of a single automobile.

(u) "Occupant" means a person or persons, other than a unit owner, in possession of one or more units.

(v) "Voting Member" means the person entitled to exercise all voting power in respect to each unit ownership.

(w) "Master Association" means an organization described in Section 18.5 of the Act, whether or not it is also an association described in Section 18.3 of the Act.

(x) "Affiliate of a Developer" means any person who controls, is controlled by, or is under common control with a Developer. A person "controls" a Developer if the person (i) is a general partner, officer, director, or employer of the Developer, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20% of the voting interest in the Developer, (iii) controls in any manner the election of a majority of the directors of the Developer, or (iv) has contributed more than 20% of the capital of the Developer. A person "is controlled by" a Developer if the Developer (i) is a general partner, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20% of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than 20% of the capital of the person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised. A salesman or broker licensed under the "Real Estate Broker's License Act," who is hired and in fact performs no other function for the Developer other than the sale of real estate and who has no other relationship to the Developer, shall not be considered an affiliate of the Developer.

(y) "Developer Control" means such control at a time prior to the election of the Board of Managers provided for in Section 18.2(b) of the Act.

(z) "Meeting of Board of Managers" means any gathering of a majority of a quorum of the members of the Board of Managers held for the purpose of discussing board business.

(aa) "Commercial Unit" means Unit C-1 as shown on the Plat and permitted to be used for commercial purposes as set forth in this Declaration.

(bb) "Wall Sign Area" means the area on the north-facing exterior side wall of the Building reserved for the Owner of the Commercial Unit as more fully set forth in Section 3 (c) of Article IV of this Declaration.

## **ARTICLE II**

### **UNITS**

1. Description. All Units located on the Property are delineated on the survey, referred hereto as Exhibit "A" and made a part of the Declaration and are legally described as follows:

#### **Units:**

#### **C-1, 2, 3 and Penthouse**

as delineated on the Plat of Survey of the following described parcel of real estate:

**The North 26.10 feet of Lot 23 in Block 1 in Sherman's Addition to Holstein in Section 31, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.**

It is understood that each unit consists of the space enclosed or bounded by the horizontal and vertical planes set forth and identified as a unit in the delineation thereof in Exhibit "A". The legal description of each unit shall consist of the identifying number or symbol of such unit followed by the legal description of the Property, as shown on Exhibit "A". Except as provided by the Act, no unit owner shall, by deed, plat or otherwise, subdivide or in any other manner cause the unit to be separated into any tracks or parcels different from the whole unit as shown on Exhibit "A".

To the extent such data is available to the Declarant at the time this Declaration is filed, the plat of survey attached hereto as Exhibit "A" sets forth the measurements, elevations, locations and other data, as required by the Act, with respect to (i) the Parcel and its exterior boundaries; (ii) the Building and each floor thereof; and (iii) each Unit in the Building and said Unit's horizontal and vertical dimensions. However, the Declarant hereby reserve unto itself and the Developer, the right, from time to time, as further data becomes available, to amend the Plat so as to set forth the measurements, elevations, locations and other data required by the Act, with respect to the Building and the Units now or hereafter constructed on the Parcel.

2. Certain Structures Not Constituting Part of a Unit. No structural components of the building, and no pipes, wires, conduits, public utility lines, ducts, flues, and shafts situated within a unit and forming part of any system serving one or more other units, nor the common elements, shall be deemed part of said unit.

### 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 foregoing, the common elements shall include the land, outside walks and driveways, landscaping, stairways, walkways, entrances and exits, halls, lobby, corridors, basement, roof, structural parts of the building, component parts of walls, floors and ceilings, and pipes, ducts, flues, shafts, and public utility lines serving the common elements or more than one unit.

2. Ownership of Common Elements. Each unit owner shall own an undivided interest in the common elements as a tenant in common with all the other unit owners of the Property, and, except as otherwise limited in the 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 the Declaration, which right shall be appurtenant to and run with his unit. Such right shall extend to each unit owner, and the agents, servants, tenants, family members, and invitees of each unit owner. Each unit owner's interest shall be expressed by a percentage amount and, once determined, shall remain constant and may not be changed without unanimous approval of all unit owners, unless hereafter changed by recorded amendment to this Declaration consented to in writing by all unit owners. The Declarant has so determined each unit's corresponding percentage of ownership in the common elements as set forth in Exhibit "B" attached hereto, and each unit owner accepts such determination.

3. Limited Common Elements. Except as otherwise in the Declaration provided, the limited common elements shall consist of all portions of the common elements set aside and allocated for the restricted use of particular units, or which, by the terms of this Declaration or 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 owner or owners thereof shall be deemed a limited common element. Without limiting the generality of the foregoing, the limited common elements shall include: balconies, porches, and decks, if any, where depicted on the Plat; the three (3) outdoor Parking Spaces where shown as limited common elements on the Plat and/or as set forth on Exhibit "B" attached hereto and/or as set forth as a Parcel 2 in the legal description attached to the deed of conveyance for the particular Unit closing from Developer to original Unit Owner; and the Roof Area (as defined in Article VIII, Section 3(a) of this Declaration) for Unit Penthouse as more fully set forth in said Article VIII, Section 3(a) of this Declaration.

4. Assignment of Limited Common Elements. Balconies, porches, and decks, if any, where shown as limited common elements on the Plat shall be assigned to the owner of the unit they serve as shown on the Plat. Parking Spaces shall be assigned to the owner of the unit they serve where shown as limited common elements on the Plat and/or as set forth on Exhibit "B" attached hereto and/or as set forth as a Parcel 2 in the legal description attached to the deed of conveyance for the particular Unit closing from Developer to original Unit Owner. The Roof Area set forth in Article VIII, Section 3(a) of this Declaration shall be and is hereby assigned to the owner of Unit Penthouse, for the right to the exclusive use thereto, except that the Owner of the Commercial Unit shall have the right of access to it solely for the purpose of installing, repairing, maintaining its Wall Sign within the Wall Sign Area in furtherance of the Wall Sign Easement, as said terms are defined in this Declaration.

5. Transfer of Limited Common Elements. The use of limited common elements may be transferred between unit owners at their expense, provided that the transfer may be made only in accordance with the condominium instruments and the provisions of the Declaration. Each transfer shall be made by an amendment to the Declaration executed by all unit owners who are parties to the transfer and consented to by all other unit owners who have any right to use the limited common elements affected. The amendment shall contain a certificate showing that a copy of the amendment has been delivered to the Board of Managers. The amendment shall contain a statement from the parties involved in the transfer which sets forth any changes in the parties' proportionate shares. If the parties cannot agree upon a reapportionment of their respective shares, the Board of Managers shall decide such reapportionment. No transfer shall become effective until the amendment has been recorded.

Rights and obligations in respect to any limited common element shall not be affected, nor shall any transfer of it be effective, unless a transaction is in compliance with the requirements of this Section and of the Act.

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

1. Submission of Property to Provisions of Act. The Property is hereby submitted to the provisions of the Act.

2. No Severance of Ownership. No unit owner shall execute any deed, mortgage, lease or other instrument affecting title to the 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. If any portion of the common elements encroaches upon any unit, or if any unit encroaches upon any portion of the common elements or any other unit as a result of the construction, repair, reconstruction, settlement or shifting of any building, a valid mutual easement shall exist in favor of the owners of the common elements and the respective unit owners involved to the extent of the encroachment. A valid easement shall not exist in favor of any unit owner who creates an encroachment by his intentional, willful or negligent conduct or that of his agent.

3. Easements. (b) Utility Easements. Ameritech, Commonwealth Edison Company, People's Gas, Light and Coke Company and all other public utilities serving the property and any Person providing cable television or other similar entertainment to any Unit Owners or to the Property (including the Association, if applicable) are hereby granted the right to lay, construct, renew, operate, and maintain conduits, cables, pipes, wires, transformers, switching apparatus, and other equipment related to their service to the Property, into and through the common elements and the units, where reasonably necessary for the purpose of providing utility and entertainment services to the Property.

3. Easements. (c) Wall Sign Easement. The Owner of the Commercial Unit is hereby granted the right to install, hang, affix, attach, construct, depict, operate, repair and maintain and

renew a wall sign ("Wall Sign") onto the north-facing exterior side wall of the Building (the "Wall Sign Area") situated upon the Property, including: (i) generally, any reasonable access thereto into and through the common elements, where reasonably necessary; and (ii) specifically including any reasonable access thereto into and through the limited common element Roof Area (as defined in this Declaration) otherwise assigned for the exclusive use of the Owner of Unit Penthouse, where reasonably necessary. The purpose of the Wall Sign shall be for advertising of the business operated within the Commercial Unit by the Owner thereof and/or its tenant, if any.

3. Easements. (d) 2156 N. Damen Condominiums. Pursuant to Section 3 (c) of Article IV of the Declaration of Condominium Ownership and By-Laws, Easements, Restrictions and Covenants for the 2156 N. Damen Condominiums recorded as Document Number **0429919118**, the Owners of the Units in the 2158 N. Damen Condominiums were granted the non-exclusive right of ingress and egress in and to the Property at 2156 North Damen, for pedestrian and/or vehicular access, including: (i) generally, any reasonable access thereto into and upon and through the limited common elements' Parking Area, where reasonably necessary, at the rear of the lot at 2156 North Damen; and (ii) specifically including any reasonable access thereto into and upon and through the one (1) limited common element Parking Space (as referenced in this Declaration) otherwise assigned for the exclusive use of the Owner of a Unit in the 2158 N. Damen Condominiums that traverses the lot line of the property at 2158 North Damen onto the lot of line of the Property at 2156 North Damen, as more fully depicted on the Plat of Survey attached hereto as Exhibit A, and as depicted on the Plat of Survey attached as Exhibit A to the Declaration of Condominium Ownership and By-Laws, Easements, Restrictions and Covenants for the 2156 N. Damen Condominiums recorded as Document Number **0429919118**.

4. Easements and Rights to Run with Land. All easements and rights described herein are easements and rights 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 Declarant, its successors and assigns, and any unit 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 the Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees, and trustees of such unit ownership as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

#### ARTICLE V COMMON EXPENSES, MORTGAGES, AND REAL ESTATE TAXES

1. Common Expenses. Each unit owner shall pay his proportionate share of the common expenses of administration, maintenance, and repair of the common elements and of any other expenses incurred in conformance with the Declaration and By-Laws or otherwise lawfully agreed upon. Such proportionate share of the common expenses for each unit owner shall be in the same ratio as his percentage of ownership in the common elements. Payment thereof shall be in such amounts and at such times as determined in the manner provided in the By-Laws. If any unit owner shall fail or refuse to make any such payment of the common expenses when due, the amount thereof shall constitute a lien on the interest of such unit owner in the Property as provided in the Act.

2. Separate Mortgages. Each unit owner shall have the right, subject to the provisions herein, to make a separate mortgage or encumbrance on his respective unit together with his respective ownership interest in the common elements. No unit owner shall have the right or authority to make or create or cause to be made or created any mortgage or encumbrance or other lien on or affecting the Property or any part thereof, except only to the extent of his unit and his respective ownership interest in the common elements.

3. Separate Real Estate Taxes. It is understood that real estate taxes are to be separately taxed 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.

4. Wall Sign Payments. Commencing on such a date as a wall sign shall first be hung, installed, attached, or painted in the Wall Sign Area, then the Owner of the Commercial Unit shall pay on an annual basis (i.e., for the next year) a nominal fee to the Association for the Wall Sign Area easement granted unto it, as hereinabove more fully referenced in Section 3 (c) of Article IV of this Declaration. The initial annual payment amount shall be \$500.00, which annual payment amount shall be increased on the anniversary date each year thereafter by five (5%) percent, until such time as the wall sign no longer appears in the Wall Sign Area.

#### ARTICLE VI INSURANCE

1. Fire and Hazard Insurance. The Board of Managers shall acquire as a common expense, a policy or policies of insurance insuring the common elements and the units against loss or damage from fire, lightning and other hazards contained in the customary fire and 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 to require a provision in such policy that the proceeds thereof shall be payable to the members of the Board, as trustees for each of the unit owners, in the percentages established in Exhibit "B".

The full insurable replacement cost of the units shall include the replacement cost value of additions, betterments, alterations and improvements made in and to any Unit, provided, however, the Board shall not be responsible for obtaining insurance on such additions, betterments, alterations or improvements unless and until such owner shall make such report and request the Board in writing to obtain such insurance, and shall make arrangements satisfactory to the Board to reimburse the Board for such additional premiums, which additional premiums are deemed a common expense and upon the failure of such owner so to do, the Board shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, betterments, alterations or improvements.

All said 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 interest may appear, (2) shall provide that the insurance, as to the interest of the Board, shall not be invalidated by any act or neglect of any unit 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

therefore, such option shall not be exercisable in the event the unit owners elect to sell the Property or remove the Property from the provisions of the Act, (4) 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, (5) shall contain a clause or endorsement whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, members of the Board, the Declarant, the Developer, the managing agent, if any, their respective employees and agents, and the unit owners and occupants, and (6) shall contain a "Replacement Cost Endorsement." The proceeds of such insurance shall be applied by the Board or by the corporate trustee or agent on behalf of the Board for the reconstruction of the Building or shall be otherwise disposed of, in accordance with the provisions of the Declaration and the Act; and the rights of the mortgagee of any unit under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein contained, at all times be subject to the provisions of the Act with respect to the application of insurance proceeds to reconstruction of the building. The Board may engage the services of, and such insurance may be payable to a bank or trust company authorized to do, execute, and accept trusts in Illinois to act as insurance trustee, or as agent or depository as an alternative to acting as 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 the Declaration. The fees of such bank or trust company shall be common expenses.

In the event of any loss in excess of \$50,000.00 in the aggregate, at the Board's discretion or request of any unit owner, the Board shall solicit bids from reputable contractors.

Payment by an insurance company to the Board or to such corporate trustee or agent of the proceeds of any policy, and the receipt of release from the Board or such corporate trustee or agent of the company's liability under such policy, shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust or agency agreement under which proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or see to the application of any payments of the proceeds of any policy by the Board or the corporate trustee.

Each unit owner shall inform the Board in writing of additions, alterations or improvements made by said unit owner to his unit and the value thereof which value may be included in the full replacement insurable cost for insurance purposes. Any increase premium charge therefore shall be assessed to that unit owner under the provisions of Section 9 of the Act. If a unit owner fails to inform the Board as provided above and a penalty is assessed in the adjustment of loss settlement, the unit owner shall be responsible for such penalty.

2. Appraisal. The full, insurable replacement cost of the Property, including the units and common elements, shall be determined from time to time (but not less frequently than once in any twelve-month period) by the Board. The Board shall have the authority to obtain an appraisal by a reputable appraisal company as selected by the Board. The cost of such appraisal shall be common expenses.

3. Public Liability and Property Damage Insurance. The Board of Managers shall acquire, as a common expense, and shall have the authority and duty to obtain, comprehensive public liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Property in amounts deemed sufficient in the judgment of

the Board of Managers, insuring the Board of Managers, the unit owners' association, the management agent, and their respective employees, agents, and all persons acting as agents. The Developer shall be included as an additional insured in his capacity as unit owner and board member. The unit owners shall be included as additional insureds but only with respect to that portion of the premises not reserved for their exclusive use. The insurance shall cover claims of one or more insured parties against other insured parties. The insurance shall contain a waiver of any rights to subrogation by the insuring company against any of the above-named insured persons.

4. Workmen's Compensation and Other Insurance. The Board of Managers shall acquire, as a common expense, workmen'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 obtain, including, but not limited to insurance for the association, its officers and manager against liability from good faith actions allegedly beyond the scope of their authority.

5. Waiver. Each unit owner hereby waives and releases any and all claims which he may have against any other unit owner, the Association, its officers, members of the Board, the Declarant, the managing agent of the Building, if any, and their respective employees and agents, for damage to the common elements, the units, or to any personal property located in the units 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.

6. Notice. The Board of Managers shall notify insured persons concerning the cancellation of insurance obtained pursuant to the terms of this Article.

## ARTICLE VII ADMINISTRATION AND OPERATION

1. Administration. The administration of the Property shall be vested in the Board of Managers consisting of the number of persons, and who shall be elected in the manner, provided in the By-Laws contained herein, as Articles XIV, XV, XVI, XVII, XVII(a) and XVIII. The Developer, after the recording of this Declaration, may cause to be incorporated under the laws of the State of Illinois, a not-for-profit corporation (herein referred to as "the Association") under the name of "2158 N. DAMEN CONDOMINIUM ASSOCIATION", or a similar name, which corporation shall be the governing body for all the unit owners for the maintenance, repair, replacement, administration, and operation of the common elements and for such other purposes as are hereinafter provided. The Board of Directors of the Association shall be deemed to be the Board of Managers referred to herein and in the Act.

2. Duties and Powers of the Association. The unit owners' Association is responsible for the overall administration of the Property through its duly elected Board of Managers. The duties and powers of the Association and its Board shall be those set forth in its Articles of Incorporation, the By-Laws, and this Declaration; provided, however, that (i) the terms and provisions of the Act shall control in the event of an inconsistency between the Act, on the one hand, and this Declaration, the Articles of Incorporation, and the By-Laws on the other hand, (ii) the terms and provisions of this Declaration shall control in the event of any inconsistency between this Declaration, on the one hand, and the Articles of Incorporation and the By-Laws on the other hand.

3. Indemnity. The members of the Board and the officers thereof or of the Association shall not be liable to the unit owners for any mistake of judgment, or any acts or omissions made in good faith as such members or officers on behalf of the unit owners or the Association unless any such contract shall have been made in bad faith or contrary to the provisions of this Declaration. The liability of any unit owner arising out of any contract made by such members or officers or out of the aforesaid indemnity shall be limited to such proportion of the total liability thereunder as his percentage interest in the common elements bears to the total percentage interest of all the unit owners in the common elements. Each agreement made by such members or officers or by the managing agent on behalf of the unit owners or the Association shall be executed by such members or officers or the managing agent, as the case may be, as agents for the unit owners or for the Association.

4. Board's Determination Binding. In the event of any dispute or disagreement between any unit owners relating to the Property, or any question of interpretation or application of the provisions of the Declaration or By-Laws, the determination thereof by the Board shall be final and binding on each and all of such unit owners.

5. Administration of Property Prior to Election of Initial Board of Managers. Until the election of the initial Board of Managers, the same rights, titles, powers, privileges, trusts, duties, and obligations vested in or imposed upon the Board of Managers by the Act and in the Declaration and By-Laws shall be held and performed by the Developer. The election of the initial Board of Managers shall be held not later than sixty (60) days after the conveyance by the Developer of three-fourths (3/4) of the units or three (3) years after the recording of the Declaration, whichever is earlier. If the initial Board of Managers is not elected by the unit owners at the time so established, the Developer shall continue in office for a period of thirty (30) days whereupon written notice of his resignation shall be sent to all of the unit owners entitled to vote at such election.

Within sixty (60) days following the election of a majority of the Board of Managers other than the Developer, the Developer shall deliver to the Board of Managers:

(1) All original documents as recorded or filed pertaining to the Property, its administration, and the Association, such as the Declaration, By-Laws, articles of incorporation, other condominium instruments, annual reports, minutes, and rules and regulations, contracts, leases, or other agreements entered into by the Association. If any original documents are unavailable, a copy may be provided if certified by affidavit of the Developer, or an officer or agent of the Developer, as being a complete copy of the actual document recorded as filed;

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

(3) Association funds, which shall have been at all times segregated from any other moneys of the Developer;

(4) A schedule of all real or personal property, equipment, and fixtures belonging to the Association, including documents transferring the Property, warranties, if any, for all real and personal property and equipment, deeds, title insurance policies, and all tax bills;

(5) A list of all litigation, administrative action and arbitrations involving the Association, any notices of governmental bodies involving actions taken or which may be taken by the Association, engineering and architectural drawings and specifications as approved by any governmental authority, all other documents filed with any other

governmental authority, all governmental certificates, correspondence involving enforcement of any Association requirements, copies of any documents relating to disputes involving unit owners, originals of all documents relating to everything listed in this subparagraph; and

(6) Any contract, lease, or other agreement made prior to the election of a majority of the Board of Managers other than the Developer by or on behalf of unit owners.

6. Records of the Association - Availability for Examination. The manager or Board of Managers shall maintain the following records of the Association available for examination and copying at convenient hours of weekdays by the unit owners or their mortgagees and their duly authorized agents or attorneys.

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

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

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

(d) Ballots for all elections to the Board of Managers and for any other matters voted on by the unit owners shall be maintained for a period of not less than one year.

(e) Such other records of the Association as are available for inspection by members of a not-for-profit corporation pursuant to Section 25 of the General Not-For-Profit Corporation Act, approved July 19, 1943, as amended, shall be maintained.

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

#### ARTICLE VIII MAINTENANCE, ALTERATIONS, DECORATING

1. Maintenance, Repairs, and Replacements. Each unit owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs, and replacements within his

own unit. Maintenance, repairs, and replacements of the common elements shall be furnished by the Board as part of the common expenses, subject to the rules and regulations of the Board.

The Board may cause to be discharged any mechanic's lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the Property or common elements, rather than against a particular unit and its corresponding percentage of ownership in the common elements. When less than all the unit owners are responsible for the existence of any such lien, the unit owners responsible 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.

Whenever the Board shall determine, in its discretion, that any maintenance or repair of any unit is necessary to protect the common elements or any other portion of the Building, the Board may cause a written notice of the necessity for such maintenance or repair to be served upon such unit owner, which notice may be served by delivering a copy thereof to any occupant of such unit or by mailing the same by certified or registered mail addressed to the owner at the unit. If such unit owner fails or refuses to perform any such maintenance or repair within a reasonable time stated in the notice (or any extension thereof approved by the Board), the Board may cause such maintenance and repair to be performed at the expense of such unit owner.

If, due to the act or neglect 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 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 Board, to the extent not covered by insurance.

The Board shall have exclusive authority to take, or refrain from taking, any action pursuant to this Article VIII, Section 1. All expenses which, pursuant to this Section 1, are chargeable to any unit owner, may be specifically assessed to such unit owner and shall be payable by such unit owner as prescribed by the Board.

**2. Limited Common Elements.** Any charge or expense in connection with expenditures for the limited common elements shall be assessed only against that unit to which such limited common elements are assigned.

**3. Alterations, Additions or Improvements.** No alterations of any common elements or any additions or improvements thereto, shall be made by any unit owner without the prior written approval of the Board. Any unit owner may make alterations, additions, and improvements within his unit without the prior written approval of the Board, but, in any event, such unit owner shall be responsible for any damage to other units, the common elements, or the Property as a result of such alterations, additions or improvements. 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 (except as otherwise set forth below in Section 3(a) below) structurally change the Building.

**3(a). Roof Area:** The roof area located above Unit Penthouse (the "Roof Area") is expressly declared a Limited Common Element reserved for the exclusive use of Unit Penthouse, except that the Owner of the Commercial Unit shall have the right of access to it solely for the

purpose of installing, repairing, maintaining its Wall Sign within the Wall Sign Area in furtherance of the Wall Sign Easement, as said terms are defined in this Declaration. Except for any alterations to the Roof Area by the Unit Owner of Unit Penthouse (which may only be made subject to compliance with the provisions of this Section 3(a)), the maintenance, repair and replacement of the Roof Area shall be the responsibility of the Association; provided, however, that from and after the time the Unit Owner of Unit Penthouse improves or provides access to the Roof Area, the maintenance, repair and replacement of that portion of the Roof Area occupied by any skylights or lying directly beneath any roof top deck only shall be the responsibility of such Unit Owner, in accordance with the provisions of this Declaration. The Roof Area may be altered or improved by the Unit Owner of Unit Penthouse to install a skylight or construct an accessible roof top deck, provided that (i) such alterations or improvements shall not impair or weaken the structural integrity of any Units or any portion of the Common Elements or cause leakage in the roof of the Building; (ii) the Unit Owner of Unit Penthouse shall furnish to the Board not less than sixty (60) days prior to the date the Unit Owner desires to commence such work all plans detailing the work to be done, which plans shall conform with any structural or engineering drawings and plans prepared or reviewed and approved by an architectural or engineering firm selected by the Board; (iii) the Board consents to the performance of such work, which consent shall not be unreasonably withheld if the provisions of this Section 3(a) are complied with by the Unit Owner; (iv) the expense of such alterations or improvements shall be paid in full by the Unit Owner making such alterations or improvements; (v) such Unit Owner procure and deliver to the Board such lien waivers and contractor's and subcontractor's sworn statements as may be required by the Board to protect the Property from all mechanics' and materialmen's liens that may arise therefrom; (vi) such Unit Owner shall pay in full the expense of restoring all such Common Elements to their condition prior to such alterations or improvements in the event such alterations or improvements cease to be used; (vii) such alterations or improvements shall not interfere with the use and enjoyment of the Common Elements, including, but not limited to, reasonable access and ingress to and egress from the other Units; (viii) such Unit Owner shall be liable for any loss or damage caused by such alterations or improvements; (ix) such Unit Owner who desires to make such alterations or improvements shall indemnify and hold harmless the other Unit Owners, the Board, the Association, the Developer and the Declarant from and against all claims, including but not limited to claims of third parties and Unit Owners for personal injury, property damage or non-payment for work performed or materials supplied in connection with such work; and (x) all such alterations or improvements shall comply with all applicable laws, codes and ordinances, including specifically, but not limited to, the City of Chicago zoning ordinance and building code, and such Unit Owner shall obtain any required governmental approvals and permits. The Unit Owner making such an improvement or alteration to the Roof Area shall be responsible for, and shall pay to the Association, the additional costs, if any, of maintenance or insurance as a result of such alteration or improvement.

4. **Decorating.** Each unit owner shall furnish and be responsible for, at his own expense, all of the decorating within his own unit from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps, and other furnishings and interior decorating. The use of and the covering of the interior surfaces of windows, whether by draperies, shades or other items visible on the exterior of the Building, shall be subject to the rules and regulations of the Board. Decorating of the common elements (other than interior surfaces within the units as above provided), and any redecorating of units to the extent made necessary by any damage to existing decorating of such units caused by maintenance, repair or replacement work on the common elements by the Board, shall be furnished by the Board as part of the common expenses.

ARTICLE IX  
LEASE OF UNITS OR SUBLEASE OR  
ASSIGNMENT OF LEASE THEREOF

Any Unit Owner shall have the right to lease, or permit a subsequent sublease or assignment of, all (but not less than all, except as to the Commercial Unit) of his Unit upon such terms and conditions as the Unit Owner may deem acceptable, except that no Unit (except the Commercial Unit) shall be leased, subleased or assigned for a period of less than six (6) months. Any such lease, sublease or assignment shall be in writing, a copy of which must be delivered to the Association not later than the date of use and/or occupancy or ten (10) days after the lease is signed, whichever occurs first, and shall provide that the lease, sublease or assignment shall be subject to the terms of this Declaration and that any failure of the lessee, sublessee or assignee to comply with the terms of this Declaration, the By-Laws, the Act, or any rule or regulation adopted by the Board, shall constitute a default under said lease which shall be enforceable by the Board or the Association, and the lease shall be deemed to expressly so provide. In addition, the Board or the Association shall retain the right to remedy said failure by electing any of the remedies set forth in this Declaration, the By-Laws, the Act, or any rule or regulation adopted by the Board.

ARTICLE X  
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 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, 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 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 and eighty (180) days after said damage or destruction, the unit owners shall elect either to sell the Property as hereinafter provided in Article XII 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 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 in Exhibit "B", after first paying out of the share of each unit owner the amount of any unpaid liens on his unit, in the order of the priority of such liens.

2. Insufficient Insurance. (a) If the insurance proceeds 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 and eighty (180) days from the date of damage or destruction, the Board of Managers may record a notice setting forth such facts and upon the recording of such notice:

- (i) The Property shall be deemed to be owned in common by the unit owners;

(ii) The undivided interest in the Property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common elements;

(iii) Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the unit owner in the Property as provided herein; and

(iv) The Property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, shall be considered as one fund and shall be divided among all the unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the Property, after first paying out of the respective shares of the unit owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each unit owner.

2. Insufficient Insurance. (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 affirmative vote of not fewer than three-fourths (3/4) of the unit owners voting at a meeting called for that 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. At such meeting the Board of Managers, or its representative, 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.

2. Insufficient Insurance. (c) In the case of damage or other destruction, upon the affirmative vote of not fewer than three-fourths (3/4) 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 of Managers. The 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.

3. Cessation of Common Expenses. 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.

#### ARTICLE XI EMINENT DOMAIN

1. Relocation of Common Elements and Condemnation Award. 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 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 of Managers. 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 element will be distributed in accordance with the interests of those entitled to their use.

2. Cessation of Common Expenses. 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.

## ARTICLE XII SALE OF THE PROPERTY

The unit owners, through the affirmative vote of voting members having at least 2/3 of the total votes, at a meeting duly called for such purpose, may elect to sell the Property as a whole. Within ten (10) days 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 ownership entitled to notice under Section 1 of Article XIX of the 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 or 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 fair market value of his interest, as determined by arbitration as hereinafter provided, less the amount of any unpaid assessments or charges due and owing from such unit owner. In the absence of agreement on the fair market value of such interest, such unit owner and the Board shall each select an appraiser, and two so selected shall select a third, and the fair market value, as determined by said third appraiser, 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 shall be a common expense.

## ARTICLE XIII BY-LAWS

The provisions of Articles XIV, XV, XVI, XVII, XVII (a) and XVIII shall constitute the By-Laws of the Association and the By-Laws prescribed by the Act.

## ARTICLE XIV BOARD OF MANAGERS

1. Board of Managers (Board of Directors). (a) The direction and administration of the Property shall be vested in a Board of Managers, consisting of three (3) persons who shall be appointed or elected in the manner herein provided. Each member of the Board shall be one of the unit owners, provided, however, that in the event a unit owner is a corporation, partnership, trust, or other legal entity other than a natural person or persons, then any officer, director, or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust or manager of such other legal entity, shall be eligible to serve as a member of the Board.

1. Board of Managers (Board of Directors). (b) At the initial meeting the voting members shall elect at large the three (3) Board members. In all elections for members of the Board, each voting member shall be entitled to cumulate his votes in the manner provided by law and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Members of the Board elected at the initial meeting shall serve until the first annual meeting. Three (3) Board members shall be elected at the first annual meeting. The one (1) person receiving the highest number of votes at the first annual meeting shall be elected to the Board for a term of two (2) years and the two (2) persons receiving the next highest number of votes shall be elected to the Board for a term of one (1) year. In the event of a tie vote, the members of the Board shall determine which member shall have the two (2) year term and which members shall have the one (1) year terms. Upon the expiration of the terms of office of the Board members so elected at the first annual meeting and thereafter, successors shall be elected at large for a term of two (2) years each. The voting members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease such number of persons on the Board or may increase or decrease the term of office of Board members at any annual or special meeting, provided that such number shall not be less than three (3), and that the terms of at least one-third (1/3) of the persons on the Board shall expire annually and that no Board member or officer shall be elected to a term in excess of two (2) years; provided, however, that a Board member or officer may be re-elected at the expiration of his term. Members of the Board shall receive no compensation for their services unless expressly authorized by the Board with the approval of voting members having two-thirds (2/3) of the total votes. Vacancies in the Board, including vacancies due to any increase in the number of persons on the Board, shall be filled by the voting members present at the next annual meeting or at a special meeting of the voting members called for such purpose. The remaining members of the Board shall have the authority to fill the vacancy by two-thirds (2/3) vote until the next 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 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 purposes of filling a vacancy on the Board no later than thirty (30) days following the filing of a petition signed by unit owners holding 20% of the votes of the Association requesting such a meeting. Except as otherwise provided in this Declaration, the Property shall be managed by the Board and the Board shall act by majority vote of those present at its meeting when a quorum exists. A majority of the total number of the members of the Board shall constitute a quorum. Meetings of the Board may be called, held, and conducted in accordance with such resolutions as the Board may adopt.

1. Board of Managers (Board of Directors). (c) The Board shall elect for a term of one year from among its members a president who shall preside over both its meetings and those of the voting members, and who shall be the chief executive officer of the Board and the

Association and who shall execute amendments to the condominium instruments; a secretary who shall keep the minutes of all meetings of the Board and of the voting members, who shall mail and receive all notices, and who shall, in general, perform all the duties incident to the office of secretary; a treasurer to keep the financial records and books of account; and such additional officers as the Board shall see fit to elect. Any officer may be removed at any meeting by the affirmative vote of the majority of the members of the Board, either with or without cause, and any vacancy in any office may be filled by the Board at any meeting thereof.

1. Board of Managers (Board of Directors). (d) 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 the Board member removed may be elected by the voting members at the same meeting or any subsequent annual meeting or special meeting called for that purpose.

1. Board of Managers (Board of Directors). (e) The Board shall meet at least four (4) times annually, on the first Mondays of February, May, August, and November, and at such other times as the Board deems necessary. Meetings of the Board of Managers shall be open to any unit owner, except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the particular Association has been filed and is pending in a court or administrative tribunal, or when the board of managers finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the Association or a unit owner's unpaid share of common expenses; that any vote on these matters shall be taken at a meeting or portion thereof open to any unit owner; that any unit owner may record the proceedings at meetings required to be open by this Act by tape, film or other means; that the Board may prescribe reasonable rules and regulations to govern the right to make such recordings; that notice of such meetings shall be mailed or delivered at least 48 hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice pursuant to the Declaration, By-Laws, other condominium instrument, or provision of law other than this subsection before the meeting is convened; and that copies of notices of meetings of the Board of Managers shall be posted in entranceways, elevators, or other conspicuous places in the condominium at least 48 hours prior to the meeting of the Board of Managers except where there is no common entranceway for 7 or more units, the Board of Managers may designate one or more locations in the proximity of these units where the notices of meetings shall be posted.

2. General Powers of the Board. (a) The powers and duties of the Board of Managers shall include, but shall not be limited to, the following matters:

- (1) Operation, care, upkeep, maintenance, replacement, and improvement of the common elements.
- (2) Preparation, adoption, and distribution of the annual budget for the Property.
- (3) Levying of assessments.
- (4) Collection of assessments from unit owners.

(5) Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the common elements.

(6) Obtaining adequate and appropriate kinds of insurance.

(7) Owning, conveying, encumbering, leasing, and otherwise dealing with units conveyed to or purchased by it.

(8) Adoption and amendment of rules and regulations covering the details of the maintenance, administration, management, operation, use, conservation, and beautification of the Property, and for the health, comfort, safety, and general welfare of the unit owners and occupants of the Property, after a meeting of the unit owners called for the specific purpose of discussing the proposed rules and regulations, notice of which contains the full text of the proposed rules and regulations and which conforms to the requirements of Section 18(b) of the Act, however, no rules or regulations may impair any rights guaranteed by the First Amendment to the Constitution of the United States or Section 4 of Article I of the Illinois Constitution, and unless the Declaration, By-Laws, or other condominium instrument expressly provides to the contrary, no quorum is required at such meeting of the unit owners.

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

(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 other unit or units.

(11) 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.

(12) Impose charges for late payments of a unit owner's proportionate share of the common expenses, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, levy reasonable fines for violation of the Declaration, By-Laws, and rules and regulations of the Association.

(13) Unless the condominium instruments expressly provide to the contrary, assign its right to future income, including the right to receive common expenses.

(14) 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 the Act.

(15) Record the granting of an easement for the laying of cable television cable where authorized by the unit owners under the provisions of the Act.

(16) To pay for landscaping, gardening, snow removal, painting, cleaning, tuck pointing, maintenance, decorating, repair, and replacement of the common elements (but not including the

windows and glass doors appurtenant to the unit, if any, and the interior surfaces of the units and of the hallway doors appurtenant thereto, which the unit owners shall paint, clean, decorate, maintain, and repair, except if necessitated by repairs to the common elements) and such furnishings and equipment for the common elements as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for the common elements.

(17) To pay for 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-Laws 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.

(18) To pay any amount necessary to discharge any mechanic's lien or other encumbrance against the entire Property or any part thereof which may, in the opinion of the Board, constitute a lien against the Property or against the common elements, rather than merely against the interests therein of particular unit owners. Where one or more unit owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specially assessed to said unit owners.

(19) To maintain and repair 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 a unit owner of any unit that 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 mailed or delivered by the Board to said unit owner, provided that the Board shall levy a special assessment against such unit owner for the cost of said maintenance or repair.

(20) The Board or its agent, upon reasonable notice, 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 unit owner as practicable, and any damage caused thereby shall be repaired by the Board as a common expense.

(21) The Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board.

(22) Upon authorization by the affirmative vote of not less than a majority of the voting members at a meeting duly called for such purposes, or by a two-thirds (2/3) vote of the members of the Board of Managers, the Board, acting on behalf of all unit owners, shall have the power to seek relief from or in connection with the assessment or levy of any real property taxes, special assessments, and any other special taxes or charges of the State of Illinois or any political subdivision thereof, or any other lawful taxing or assessing body, which are authorized by law to be assessed and levied on real property and to charge and collect all expenses incurred in connection therewith as common expense.

(23) To pay for water, waste removal, other operating expenses, electricity, telephone, and other necessary utility service for the common elements.

2. General Powers of the Board. (b) 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.

2. General Powers of the Board. (c) The Board's powers, hereinabove enumerated and described in the Declaration, shall be limited in that the Board shall have no authority to acquire and pay for any structural alterations, additions to, or 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 voting members having two-thirds (2/3) of the total votes.

2. General Powers of the Board. (d) Nothing hereinabove contained in this Article shall be construed to give the Board, Association, or unit owners authority to conduct an active business for profit on behalf of all the unit owners or any of them.

#### ARTICLE XV MEMBERS (UNIT OWNERS)

1. 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 voting members shall be the unit owner or one (designated by majority agreement) of the group composed of all the unit owners of a unit ownership. There is majority agreement if 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. Such voting member may be some person designated by such unit owners to act as proxy on his or their behalf and who need not be a unit owner. Such designations shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the unit owner or unit owners. A proxy shall be invalid after 11 months from the date of its execution, unless otherwise provided in the proxy, and every proxy must bear the date of execution. Any or all unit owners of a unit ownership, and their designee, if any, may be present at any meeting of the voting members, but only the voting member of the unit ownership may vote or take any other action as a voting member either in person or by proxy, provided, however, if only one of the multiple owners of a unit is present at a meeting of the Association, he is entitled to cast all the votes allocated to that unit. The total number of votes of all voting members shall be 100, and each unit owner or group of unit owners shall be entitled to the number of votes equal to the total of the percentage of ownership in the common elements applicable to his or their unit ownership as set forth in Exhibit "B". The Declarant shall designate the voting member with respect to any unit ownership owned by the Declarant. The Association shall have one class of membership only and nothing contained in these condominium instruments shall permit or allow different classes of membership among the unit owners.

2. 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 of at least a majority of the voting members and voting members having at least 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 represented at such meeting.

2. Meetings. (b) The initial meeting of the voting members shall be held upon written notice, not less than twenty-one (21) or more than thirty (30) days' notice given by the Declarant or Developer. Said initial meeting shall be held not later than sixty (60) days after the conveyance by the Developer of 75% of the units or three (3) years after the recording of the Declaration, whichever is earlier. Thereafter, there shall be an annual meeting of the voting members on the first Wednesday of March following such initial meeting and on the first Wednesday of each succeeding March thereafter at 7:30 p.m., or at such other reasonable time or date (not more than thirty (30) days before or after such date) as may be designated by written notice of the Board delivered to the voting members not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting.

2. Meetings. (c) 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 the president of the Board, a majority of the Board, or by the voting members having 20% of the total votes and delivered not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting. The notices shall specify the date, time, and place of the meeting and matters to be considered. Matters to be submitted at special meeting of the voting members shall first be submitted to the Board of Managers, at least ten (10) days prior to the special meeting, who shall then submit the matters to the voting members.

3. Notices of Meetings. Notices of meetings required to be given herein may be delivered either personally or by mail to the person entitled to vote there at, addressed to each person at the address given by him to the Board for the purpose of service of such notice, or to the unit of the unit owner with respect to which such voting right appertains, if no address has been given to the Board.

4. Miscellaneous. (a) No merger or consolidation of the Association; sale, lease, exchange, mortgage, pledge, or other disposition of all, or substantially all of the Property and assets of the Association; or the purchase or sale of land or of units on behalf of all unit owners shall be effected unless there is an affirmative vote of two-thirds (2/3) of the votes of unit owners, at a meeting duly called for that purpose.

4. Miscellaneous. (b) When thirty percent (30%) or fewer of the units, by number, possess over fifty percent (50%) in the aggregate of the votes in the Association, any percentage vote of members specified in the condominium instruments, or the Act, shall require instead the specified percentage by number of units rather than by percentage of interest in the common elements allocated to units that would otherwise be applicable.

## ARTICLE XVI ASSESSMENTS - MAINTENANCE FUND

1. Estimated Annual Budget and Assessments. (a) Each year on or before November 1st, the Board shall estimate the total amount necessary to pay the cost of all common expenses 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. The annual budget shall set forth with particularity all anticipated common expenses by category as well as all anticipated assessments and other income. The budget shall also set forth each unit owner's proposed common expense assessment. Each unit owner shall receive, at least thirty (30) days prior to the adoption thereof by the Board of Managers, a copy of the proposed annual budget; 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, if any. The "estimated annual budget" shall be assessed to the unit owners according to each unit owner's percentage of ownership in the common elements as set forth in Exhibit "B" attached hereto. Each unit owner shall receive notice in the same manner as is provided in this Declaration for membership meetings of any meeting of the Board of Managers concerning the adoption of the proposed annual budget or any increase, or establishment of an assessment.

On or before January 1 of the ensuing year, and the first of each and every month of said year, said unit owner jointly and severally shall be personally liable for and obligated to pay to the Board or as it may direct one-twelfth (1/12) of the assessment against his unit ownership made pursuant to this section. On or before March 1<sup>st</sup> of each calendar year following the year in which the initial meeting is held, the Board shall supply to all unit owners an itemized accounting of the common expenses for the preceding year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget or assessments, and showing the net excess or deficit of income over expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each unit owner's percentage of ownership in the common elements to the next monthly installments due from unit owners under the current year estimate, until exhausted, and any net shortage shall be added according to each unit owner's percentage of ownership in the common elements to the installments due in the succeeding six (6) months after rendering of the accounting.

1. Estimated Annual Budget and Assessments. (b) If an adopted budget requires assessment against the unit owners in any fiscal or calendar year exceeding one hundred fifteen percent (115%) of the assessments for the preceding year, the Board of Managers, upon written petition by unit owners with twenty percent (20%) of the votes of the Association filed within fourteen (14) days of the Board action, shall call a meeting of the unit owners within thirty (30) days of the date of filing of the petition to consider the budget. Unless a majority of the votes of the unit owners are cast at the meeting to reject the budget, it is ratified, whether or not a quorum is present. In determining whether assessments exceed one hundred fifteen percent (115%) of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, and anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, shall be excluded from the computation.

2. Reserves and Adjustments. The Board shall establish and maintain a reasonable reserve for contingencies and replacements. Any extraordinary or non-recurring common expenses, any common expense not set forth in the budget as adopted, and any increase in assessments over the amount adopted shall be separately assessed against all unit owners. Any such separate assessment shall be subject to approval by the affirmative vote of at least two-thirds (2/3) of the unit owners voting at a meeting of such unit owners duly called for the purpose of approving the assessment if it involves proposed expenditures resulting in a total payment assessed to a unit

owner equal to the greater of five (5) times the unit's most recent common expense assessment calculated on a monthly basis or Three Hundred Dollars (\$300.00). All unit owners shall be personally liable for and obligated to pay their respective adjusted monthly amount.

3. Initial Estimate of Annual Budget. When the first Board elected or appointed hereunder takes office, it shall determine the "estimated annual budget" as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31st of the calendar year in which said election occurs. Assessments shall be levied against the unit owners during said period as provided in Section 1 of this Article.

4. Failure to Prepare Estimates. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on the unit owner shall not constitute a waiver or release in any manner of such unit owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the unit owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the next monthly maintenance payment which is due not less than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

5. Books and Records. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection by any unit owner or any representative of a unit owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the unit owner. Upon ten (10) days' notice to the Board and payment of a reasonable fee, any unit owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such unit owner.

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

7. Insurance. Any insurance premiums assessed on a basis reflecting increased charges for coverage on certain units shall be assessed to such unit.

8. Assessments. If a unit owner is in default in the monthly payment of the aforesaid charges of assessments for thirty (30) days, the members of the Board may bring suit for and on behalf of themselves and as representatives of all unit 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 unit owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. Such lien shall take effect and be in force when and as provided in the Act; provided, however, that

encumbrances 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 encumbrancer of unpaid common expenses only to the lien of all common expenses on the encumbered unit ownership which become due and payable from and after the first day of the month after the date the encumbrancer 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 its lien. In addition to the foregoing, the Board or its agents shall have such other rights and remedies to enforce such collection as shall otherwise be provided or permitted by law from time to time. Without limiting the generality of the foregoing, if any unit owner shall fail to pay the proportionate share of the common expenses or of any other expenses required to be paid hereunder when due, such rights and remedies shall include the right to take possession of such defaulting unit owner's interest in the Property, to maintain for the benefit of all the other unit owners an action for possession in the manner prescribed in "An Act in regard to Forcible Entry and Detainer," approved February 16, 1874, as amended, and to execute leases of such defaulting unit owner's interest in the Property and apply the rents derived therefrom against such expenses.

9. Nonuse. No unit owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common elements or abandonment of his unit.

10. Forbearance. The Association shall have no authority to forbear the payment of assessments by any unit owner.

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

The units and common elements shall be owned, occupied, and used subject to the following covenants and restrictions:

1. General Use. No part of the Property shall be used for other than housing and related common purposes for which the Property was designed, except for the Commercial Unit. Each unit or any two or more adjoining units used together shall be used as a residence for a single family or such other uses permitted by this Declaration and for no other purpose, except for the Commercial Unit. That part of the common elements separating any two or more 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.

2. Obstruction of Common Elements and Unit Maintenance. There shall be no obstruction of the common elements nor shall anything be stored in the common elements without prior consent of the Board except as herein expressly provided. Each unit owner shall be obligated to maintain and keep in good order and repair his own unit.

3. Prohibited Use. 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, applicable for residential use, without the prior written consent of the Board. However, if the rate of insurance on the Building or contents thereof is increased due to a Commercial Unit's use or activity, the Commercial Unit Owner shall pay to the Board an amount which represents the increased rate of insurance and such payment shall be due on or before the date the premium is due. No unit 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. No unit owner shall overload the electric wiring in the building or operate any machines, appliances, accessories, or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories or equipment to the heating or plumbing system without the prior written consent of the Board.

4. Unit Owner Insurance. Each unit 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 by the liability insurance for all the unit owners obtained by the Board as hereinbefore provided.

5. Exterior Attachments. Unit 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. Notwithstanding the foregoing, in conformance to all zoning laws and governmental authority the Owner of the Commercial Unit may: (a) hang one flat sign which shall be commercially reasonable in size and content, which shall not be back lit and which shall not extend out or be overhanging; and (b) hang, install, attach, affix, construct, operate, repair, maintain, depict a wall sign within the Wall Sign Area, as more fully set forth in Section 3 (c) of Article IV of this Declaration.

6. Window Treatment. The use and the covering of the interior surfaces of the glass windows and/or doors appurtenant to the units of the Building, whether by draperies, shades, or other items visible from the exterior of the Building, shall be subject to the rules and regulations of the Board.

7. Floor Coverings. In order to enhance the soundproofing of the Building, the floor covering for all occupied units shall meet a certain minimum standard as may be specified by rules and regulations of the Board.

8. Pets, etc. Except as otherwise permitted in Article XVII(a) of this Declaration as to Commercial Units, no animals, reptiles, 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 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.

9. Nuisances. 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 unit owners or occupants.

10. Unsignliness. No clothes, sheets, blankets, laundry, or any kind of 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.

11. Personal Effects. 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 the common storage area designated for that purpose.

12. Commercial Activities. No industry, business, trade, occupation, or profession of any kind, commercial, religious, educational, or otherwise, designated for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted in any unit, except for the Commercial Unit.

13. "For Sale" and "For Rent" Signs. 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; provided that the right is reserved by the Declarant, the Developer, and their agents, to maintain on the Property until the sale of the last unit, all models, sales offices, and advertising signs, banners, and lighting in connection therewith, at such locations and in such forms as they shall determine, together with the right of ingress, egress, and transient parking therefor through the common elements.

14. Common Elements. Nothing shall be altered or constructed in or removed from the common elements, except upon the written consent of the Board.

15. Exceptions. The unit restrictions in paragraphs 1 and 12 of this Article XVII shall not, however, be construed in such a manner as to prohibit a unit owner from: (a) maintaining his 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 Section 1 and 12 of this Article XVII.

#### ARTICLE XVII (a) RESTRICTIONS ON USE OF COMMERCIAL UNITS

1. The owner or tenant of the Commercial Unit shall be restricted from using or leasing all or a portion of the Commercial Unit for any use which may be considered a private or public nuisance by a court of local jurisdiction or by any statute or ordinance. In addition, any use that may create an unreasonable disturbance to the Property or to any Unit Owner is specifically prohibited.

2. Notwithstanding the zoning which applies to the Commercial Unit, the Commercial Unit is strictly prohibited from being used as follows:

- a. Animal Hospitals and Pounds (by way of clarification, pet-grooming use shall be expressly permitted);
- b. Battery and Tire Service Stations;
- c. Live Bait Stores;
- d. Poultry, Live-Slaughtering and Retail Sale;
- e. Amusement Establishments, including arcades;
- f. Taxidermists;
- g. Undertaking Establishment and Funeral Parlors;
- h. Single Room Occupancy;
- i. Recycling Facilities;
- j. Entertainment Cabarets;

- k. Frozen Food Stores, including locker rental in conjunction therewith;
- l. Adult Uses (as defined in Chicago Zoning Ordinance Chapter 16-16-030);
- m. Production, processing, cleaning, servicing, testing or repair of materials, goods or products;
- n. Hotels and motels;
- o. Garages and Parking Lots for storage or Motor Vehicles, repair, body repair, painting or engine rebuilding;
- p. House Trailer Sales, Motor Vehicles Sales or Motorcycle Sales;
- q. Machinery Sales;
- r. Stadiums, Auditoriums and Arenas;
- s. Trailer Sales and Rentals;
- t. Tire Sales;
- u. Flea Markets;
- v. Automobile Service Stations;
- w. Caskets and Casket Supplies;
- x. Fire Station and Police Stations;
- y. Laboratories; and
- z. Recording Studios.

**ARTICLE XVIII**  
**REMEDIES FOR BREACH OF**  
**COVENANTS, RESTRICTIONS AND REGULATIONS**

1. Abatement and Enjoinment. 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 summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing, or condition that may exist thereon contrary to the intent and the provisions hereof, and the Declarant, the Developer, 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 proceeding, 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 expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of seven percent (7%) per annum until paid, shall be charged to and assessed against such 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. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

2. Involuntary Sale. If any unit owner (either by his own conduct or by the conduct of any 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 re-occur more than once after such notice, then the Board shall have the power to issue to the defaulting unit owner a ten (10) day notice in writing to terminate the rights 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 in equity may be filed by the members of the Board against the defaulting unit owner for a decree of mandatory injunction against unit owner or occupant or, in the alternative, for a decree declaring the termination of the defaulting unit owner's right to occupy, use, or control the unit owned by him

on account of the said violation, and ordering that the right, title, and interest of the unit 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 court shall enjoin and restrain the defaulting unit owner 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 unit owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to the unit owner. Upon the confirmation of such sale, the purchaser thereat shall thereupon 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 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 XIX GENERAL PROVISIONS

1. Notice to Mortgagees. 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 unit owner whose unit ownership is subject to such mortgage or trust deed.

2. Notices to Board, Association, and Unit Owners. 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

**2158 N. DAMEN CONDOMINIUM ASSOCIATION**  
2158 North Damen Avenue, Chicago, Illinois 60647

(indicating thereon the number of the respective unit if addressed to a unit 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 unit owners. Any unit 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 a unit owner, when deposited in his mailbox in the Building or at the door of his unit in the Building.

3. Notice to Decedent. Notices required to be given any devisee 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.

4. Binding Effect. Each grantee of the Declarant, by acceptance of a deed of conveyance, or each purchaser under any contract for such deed of conveyance, 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 or any unit, 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.

5. 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.

6. Amendment.

(a) Except as otherwise provided in the Act, this Declaration and By-Laws, the provisions of the condominium instruments may be amended, changed, or modified by an instrument in writing setting forth such amendment, change, or modification, signed and acknowledged by all of the members of the Board, at least three fourths (3/4) of the unit owners, and the approval of any mortgagees required under the provisions of the condominium instruments, and containing an affidavit by an officer of the Board certifying that a copy of the amendment, change, or modification has been mailed by certified mail to all mortgagees having bona fide liens of record against any unit, not less than ten (10) days prior to the date of such affidavit. Any amendment, change, or modification shall conform to the provisions of the Condominium Property Act and shall be effective upon recordation thereof.

(b) No change, modification, or amendment which affects the rights, privileges, or obligations of the Declarant or the Developer shall be effective without the prior written consent of the Declarant or the Developer.

(c) No change, modification, or amendment which affects the rights, privileges, or obligations of an Owner of the Commercial Unit shall be effective without the prior written consent of the Owner of the Commercial Unit.

(d) Except to the extent authorized by provisions of the Act or the Declaration, no amendment to the condominium instruments shall change the boundaries of any unit or the undivided interest in the common elements, the number of votes in the Unit Owners' Association, or the liability for common expenses appertaining to a unit. Notwithstanding the preceding sentence to the contrary, however, the Owner of the Commercial Unit may change the boundaries of the said Commercial Unit in order to separate and divide the said Commercial Unit into a number of separate and divisible commercial units, provided that the total percentage ownership interests of the newly created commercial units shall equal the percentage ownership interest of the Commercial Unit C-1 set forth in Exhibit "B" to this Declaration.

(e) Notwithstanding any language to the contrary in the Declaration, the Developer and/or the Declarant reserve the right and power to record an amendment to this Declaration at any time and from time to time which amends this Declaration (I) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Department of Veteran's Affairs (formerly known as the Veteran's Administration), or any other governmental agency or any other public, quasi-public or private entity which performs (or may perform) functions similar to those currently performed by such entities, (II) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering the units within the Property, (III) to bring this Declaration

into compliance with the Act, or (IV) to correct clerical or typographical or similar errors in this Declaration or any Exhibit attached hereto or any supplement or amendment attached thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Developer and/or the Declarant to vote in favor of, make or consent to said amendment(s) on behalf of each unit owner as proxy of attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting the ownership of a unit, and the acceptance thereof, shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Developer and/or the Declarant to vote in favor of, make, execute and record said amendment(s). The right of the Developer and/or the Declarant to act pursuant to rights reserved or granted under this section shall terminate at such time as the Developer and/or the Declarant no longer holds or controls title to a unit.

(f) Notwithstanding any language to the contrary in the Declaration, the Developer and/or the Declarant reserve the right and power to record an amendment to this Declaration at any time and from time to time which amends this Declaration to change the boundaries of the Commercial Unit C-1 in order to separate and divide the said Commercial Unit C-1 into a number of separate and divisible commercial units, provided that the total percentage ownership interests of the newly created commercial units shall equal the percentage ownership interest of the Commercial Unit C-1 set forth in Exhibit "B" to this Declaration.

7. 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 remainder of this Declaration.

8. Perpetuities and Restraints. If any of the options, privileges, covenants, or rights created by this Declaration would otherwise be unlawful or void for violations of (a) the rule against perpetuities or some analogous statutory provision, (b) the rules 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 last to die of the now living lawful descendants of George W. Bush, President of the United States, and Richard M. Daley, Mayor of the City of Chicago.

9. Liens. In the event any lien exists against two (2) or more units and the indebtedness secured by such lien is due and payable, the unit owner of any such unit so affected may remove such unit and the undivided interest in the common elements appertaining thereto from such lien by payment of the proportional amount of such indebtedness attributable to such unit. In the event such lien exists against the units or against the Property, the amount of such proportional payment shall be computed on the basis of the percentage set forth in the Declaration. Upon payment as herein provided, it is the duty of the encumbrancer to execute and deliver to the unit owner a release of such unit and the undivided interest in the common elements appertaining thereto from such lien.

The owner of such unit shall not be liable for any claims, damages, or judgments entered as a result of any action or inaction of the Board of Managers of the Association other than for mechanics' liens as hereinafter set forth. Each unit owner's liability for any judgment entered against the Board of Managers or the Association, if any, shall be limited to his proportionate share of the indebtedness as set forth herein, whether collection is sought through assessment or otherwise. A unit owner shall be liable for any claim, damage, or judgment entered as a result of the use or operation of his unit, or caused by his own conduct. Before conveying a unit, a

Developer shall record or furnish purchaser releases of all liens affecting that unit and its common element interest which the purchaser does not expressly agree to take subject to or assume, or the Developer shall provide a surety bond or substitute collateral for or insurance against such liens. After conveyance of such unit, no mechanic's lien shall be created against such unit or its common element interest by reason of any subsequent contract by the Developer to improve or make additions to the Property.

If, as a result of work expressly authorized by the Board of Managers, a mechanic's lien claim is placed against the Property or any portion of the Property, each unit owner shall be deemed to have expressly authorized it and consented thereto and shall be liable for the payment of his unit's proportionate share of any due and payable indebtedness.

10. Release of Claims. Each unit owner hereby waives and releases any and all claims which he may have against any other unit owner, occupant, the Association, its officers, members of the Board, the Declarant, the Developer, the managing agent, and their respective employees and agents, for damage to the common elements, the units, or to any personal property located in the units 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.

11. 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.

12. Headings. The headings and captions contained herein are inserted for convenient reference only and shall not be deemed to construe or limit the sections and articles to which they apply.

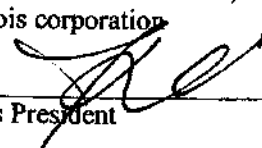
13. Land Trust Unit Owners' Exculpation. In the event title to any Unit Ownership is conveyed to a land title-holding trust, under the terms of which all powers of management, operation, and control of the Unit Ownership remain vested in the trust beneficiary or beneficiaries, then the Unit Ownership 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 of any such trust or any transfers of title of such Unit Ownership.

14. Arbitration. In the event of a dispute between or among Unit Owners which they are unable or unwilling to resolve through mediation, the dispute shall be submitted to binding arbitration by the AAA under the Commercial Arbitration Rules of the AAA. Except as provided herein, the results of the arbitration shall be final and non-appealable upon all affected Unit Owners, and may be enforced by any affected Unit Owner in a court of competent jurisdiction. A request for arbitration must be filed under the Commercial Arbitration Rules of the AAA no later than six (6) months after the date of the mediation. In the event the request for arbitration is not filed in accordance herewith within six (6) months after the date of the mediation, the Unit Owners agree that they waive the dispute and any and all claims relating to

or arising from the dispute. No notice, claim or communication between or among the Unit Owners shall stop the running of the statute of limitations. In addition to the Commercial Arbitration Rules of the AAA, the following additional rules shall govern the arbitration: (i) the arbitration shall be conducted by a single arbitrator; (ii) unless the prior written consent of all Unit Owners is obtained, the parties to the arbitration shall be limited to a complaining party and a defending party, and all Unit Owners agree not to include additional parties in the arbitration or consolidate the arbitration with any other arbitrations or legal proceedings; (iii) the complaining party shall post the initial fee for such arbitration although the arbitrator shall have the discretion to require reimbursement of the fee in connection with any award; (iv) the arbitrator shall follow the law of the State of Illinois; (v) any decision relating to the interpretation or application of the statute(s) of limitations shall be appealable under the rules of the AAA; and (vi) the arbitrator shall provide the parties with written findings of fact and law in support of each element of the award. In no event shall the defending party be liable to any complaining party for any general, special, consequential or incidental damages, costs, diminution in value or other loss which a complaining party may suffer as a result of the dispute.

IN WITNESS WHEREOF, the President of the Declarant has caused to be signed to these presents this 30<sup>th</sup> day of September, 2004.

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

By: X   
Its President

Attest to by:

X   
Its Secretary

STATE OF ILLINOIS    )  
                                  ) SS  
COUNTY OF COOK    )

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above President and Secretary of J & J CONSULTANTS II, INC., an Illinois corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary, appeared before me this day in person and acknowledged that they signed and delivered the same instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 30<sup>th</sup> day of September, 2004.

John E. Lovestrand  
NOTARY PUBLIC

This instrument was prepared by (and mail to):

John E. Lovestrand  
LAW OFFICES OF  
PALMISANO & LOVESTRAND  
19 South LaSalle Street  
Suite 900  
Chicago, Illinois 60603  
(312) 782-3967



**CONSENT OF MORTGAGEE**

**CRYSTAL LAKE BANK AND TRUST COMPANY**, holder of a Mortgage on the Property dated June 26, 2003 and recorded July 3, 2003 as Document Number 0318433049 hereby consents to the Declaration of Condominium Ownership and agrees that said Mortgage is subject to the provisions of said Declaration and the Condominium Property Act of the State of Illinois.

IN WITNESS WHEREOF, the said **CRYSTAL LAKE BANK AND TRUST COMPANY**, has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Crystal Lake, Illinois, on this 9th day of September, 2004.

**CRYSTAL LAKE BANK AND TRUST COMPANY**

BY: [Signature]  
TITLE: Vice President

**ATTEST:**

### Assistant Vice President

STATE OF ILLINOIS )  
 ) ss  
COUNTY OF McHenry )

The undersigned, a Notary Public in and for said County and State, do hereby certify that Kevin W. Myers and Brian Fowler, Vice President and Assistant Vice President, respectively, of **CRYSTAL LAKE BANK AND TRUST COMPANY**, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Assistant Vice President, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 9th day of September, 2004.

**NOTARY PUBLIC**



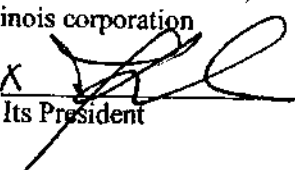
## CERTIFICATE OF DEVELOPER

Jakub Kosiba, President of **J & J CONSULTANTS II, INC.**, an Illinois Corporation (the "Corporation"), hereby certifies that:

1. The Corporation is the Developer of the **2158 N. DAMEN CONDOMINIUMS** (the "Condominium").
2. The parcel described in Article II of the Declaration of Condominium to which this Certificate is attached is a Condominium as defined in the Illinois Condominium Property Act ("the Act").
3. No Notice of Intent as required by Section 30 of the Act was given as there were no tenants in the Parcel at the time the condominium process commenced.

IN WITNESS WHEREOF, the undersigned executed this Certificate on the 30<sup>th</sup> day of September, 2004.

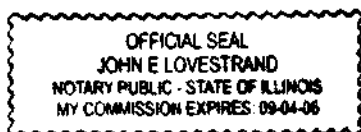
**J & J CONSULTANTS II, INC.**  
an Illinois corporation

BY: X   
Its President

STATE OF ILLINOIS )  
                                  ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Jakub Kosiba, President of **J & J CONSULTANTS II, INC.**, personally known to me to be the same person whose name is subscribed to the foregoing Certificate of Developer, appeared before me this day in person and acknowledged that he signed and delivered said Certificate as his free and voluntary act, and as the free and voluntary act of **J & J CONSULTANTS II, INC.**, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30<sup>th</sup> day of September, 2004.



John E. Lovestrand  
NOTARY PUBLIC

**EXHIBIT "B"****2158 N. DAMEN CONDOMINIUMS**

<b><u>UNIT NUMBER:</u></b>	<b><u>% OWNERSHIP IN COMMON ELEMENTS</u></b>
<b>C-1</b>	<b>19.61%</b>
<b>2 (Parking Space a LCE)</b>	<b>25.82%</b>
<b>3 (Parking Space a LCE)</b>	<b>26.80%</b>
<b>Penthouse (Parking Space a LCE)</b>	<b><u>27.77%</u></b>
<b>TOTAL</b>	<b>100.00%</b>

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# EXHIBIT

## ATTACHED TO

39-PG  
6-X  
45-TOTAL

## DOCUMENT

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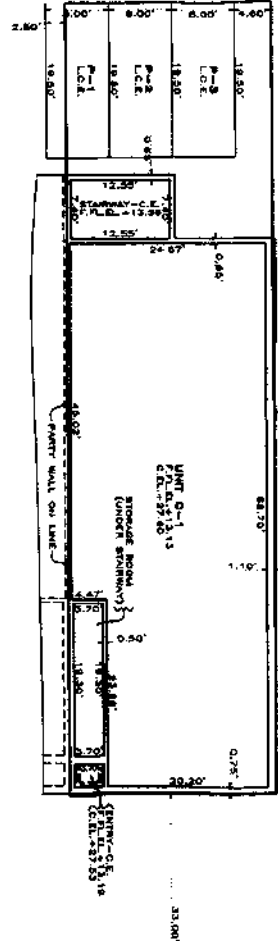
## SEE PLAT INDEX



0502439106

ALL PLUMBING, MECHANICAL, AND ELECTRICAL WORK IS TO BE IN ACCORDANCE WITH THE CITY OF CHICAGO PLUMBING, MECHANICAL, AND ELECTRICAL CODES. ALL WORK IS TO BE DONE IN ACCORDANCE WITH THE CITY OF CHICAGO PLUMBING, MECHANICAL, AND ELECTRICAL CODES. ALL WORK IS TO BE DONE IN ACCORDANCE WITH THE CITY OF CHICAGO PLUMBING, MECHANICAL, AND ELECTRICAL CODES.

W. WEBSTER AVE.



DOCUMENT  
WITH THIS EXHIBIT

FIRST LEVEL

#2158 NORTH DAMEN AVENUE

ORDER NUMBER 04-89355

LEGEND:  
F.L.D. - Finished Floor Elevation  
C.E. - Ceiling Elevation  
L.O.E. - Outside Elevation  
S.F. - Square Feet  
S.F. - Square Feet

SHEET 2 OF 6

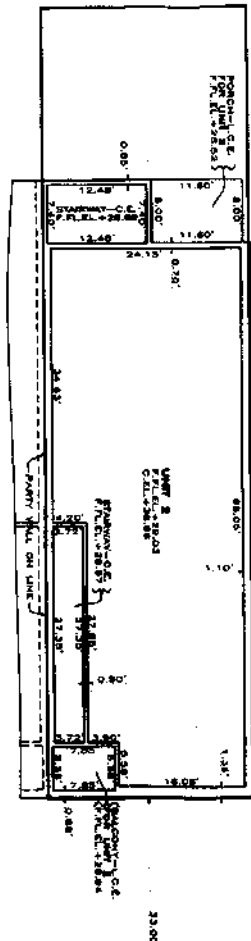
**W. WEBSTER**

**WILEY**

~~N. DAMEN~~ ~~AVE.~~

## SECOND LEVEL

#2168 NORTH DAMEN AVENUE



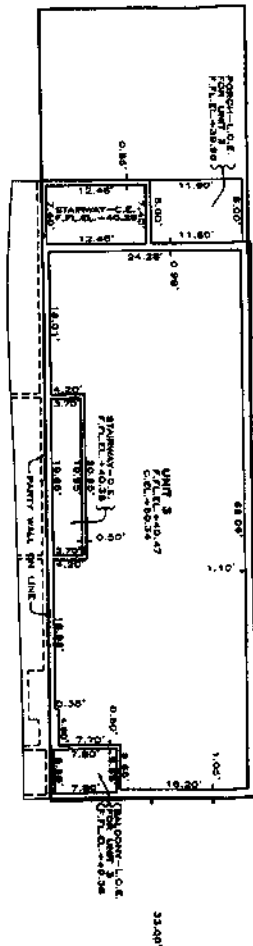
ORDER NUMBER: 04-00350

**LEGEND:**  
F.P.S. - Finished Floor Elevation  
C.O.D. - Ceiling Ductwork  
I.O.B. - Insulated Chassis Element  
For the complete list of the Designated Unit  
C.F. - Common Element

0502639106

DOCUMENT  
WITH THIS EXHIBIT

THIRD LEVEL  
#3156 NORTH DAMEN AVENUE



W. WEBSTER AVE.

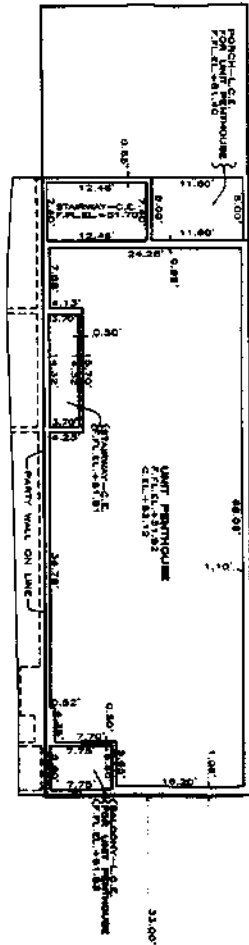
N. DAMEN AVE.

LEGEND:  
F.F.L. - Finished Floor Elevation  
C.C.E. - Centerline Elevation  
L.C.E. - Lowest Elevation  
D.C. - Centerline Elevation

0502639106

W. WEBSTER

AVE.



N. DAMEN

AVE.

DOCUMENT  
WITH THIS EXHIBIT

FOURTH LEVEL

#2158 NORTH DAMEN AVENUE

ORDER NUMBER: 04-69366

LEGEND:  
P.F.L. - Proposed Floor Elevation  
C.F.L. - Existing Floor Elevation  
C.E.L. - Existing Ceiling Elevation  
See the Existing Use of the Overprinted Unit  
C.E. - Existing Ceiling

SHEET 5 OF 8

