

**BY-LAWS  
OF  
REISS CONDOMINIUM ASSOCIATION, INC.**

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**BY-LAWS  
OF  
REISS CONDOMINIUM ASSOCIATION, INC.**

**ARTICLE 1.  
NAME AND LOCATION**

1.1 **Name.** The name of the corporation shall be Reiss Condominium Association, Inc. (the "Association").

1.2 **Location.** The principal office of the Association shall be 1830 North Hubbard Street Suite 700, Milwaukee, Wisconsin 53212. The Association may have offices at such other places as the Board of Directors may from time to time determine or the Association may from time to time require.

**ARTICLE 2.  
APPLICATION, MEMBERSHIP AND INITIAL ORGANIZATION**

2.1 **Application.** These By-Laws, together with the Declaration of Condominium of C. Reiss Condominium (the "Declaration"), the Ground Lease dated June 20, 2006 by and between the Redevelopment Authority of the City of Sheboygan, Wisconsin, as landlord, and South Pier District I, LLC, as tenant (the "Lease"), the Articles of Incorporation for Reiss Condominium Association, Inc. (the "Articles"), all amendments to the foregoing, all rules and regulations passed by the Association, and Chapter 703 of the Wisconsin Statutes, the Condominium Ownership Act, as the same may be amended, renumbered or renamed from time to time (the "Act"), shall apply to, govern and control the real property and improvements both currently and as hereafter constructed as located in the City of Sheboygan, Sheboygan County, Wisconsin and more particularly described in "Exhibit A" of the Declaration (the "Condominium"). Any and all present or future owners, tenants, employees and other persons using the Condominium shall be governed by the Declaration; the Lease; these By-Laws; the Articles; and the Act. The mere acquisition, rental or occupancy of a dwelling unit (a "Unit") within the Condominium will signify the acceptance and ratification of these By-Laws by all such persons. Capitalized terms used herein but not defined herein have the meanings used in the Declaration.

2.2 **Members.** "Members" of the Association shall consist of all "Owners" as that term is defined in the Declaration.

2.3 **Board/Initial Organization.** The business and affairs of the Corporation shall be managed by its Board of Directors ("Board of Directors" or "Board"), which shall consist of four (4) directors, not more than one of which may be a non-Member, subject to the provisions of Article 5 herein. The Board shall have the powers, duties and responsibilities set forth in the Act, the Declaration and the Articles of Incorporation. Notwithstanding any provisions set forth in these By-Laws to the contrary, South Pier District I, LLC, a Wisconsin limited liability

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company ("Declarant") may designate by mutual agreement four (4) initial directors to the Board. The initial directors shall have all of the rights and powers reserved to the Board under these By-Laws. Declarant may designate any successors to the initial directors until the events described in subsections (a) and (b), below. The initial directors or successors to any of them as designated by Declarant shall continue to serve as follows:

(a) Prior to the conveyance by Declarant to purchasers of twenty-five percent (25%) of the total "Interests" as defined in the Declaration, a special meeting of the Members shall be called, at which time one (1) initial director, or such director's successor, as designated by Declarant, shall tender his or her resignation; if the sum of Residential Unit Interests conveyed exceeds the sum of Commercial Unit Interests conveyed at that time, then the Residential Unit Owners, other than Declarant, shall elect a new director, whose position shall be deemed a Residential Seat (as defined herein) in accordance with Article 5; if the sum of Commercial Unit Interests conveyed exceeds the sum of Residential Unit Interests conveyed at that time, then the Commercial Unit Owners, other than Declarant, shall elect a new director, whose position shall be deemed a Commercial Seat (as defined herein) in accordance with Article 5;

(b) Prior to the conveyance by Declarant to purchasers of fifty percent (50%) of the total "Interests" as defined in the Declaration, a special meeting of the Members shall be called, at which time one (1) initial director, or such director's successor, as designated by Declarant, shall tender his or her resignation; if the election held pursuant to subsection (a) above was for a Residential Seat, and at least one (1) Commercial Unit has been sold by Declarant, then the Commercial Unit Owner(s), other than Declarant, shall elect a new director, whose position shall be deemed a Commercial Seat, in accordance with Article 5; if the election held pursuant to subsection (a) above was for a Commercial Seat, and at least one (1) Residential Unit has been sold by Declarant, then the Residential Unit Owner(s), other than Declarant, shall elect a new director, whose position shall be deemed a Residential Seat, in accordance with Article 5; if all of the Interests conveyed at such time are Residential, then the current Members shall elect a new director and designate the position a Residential Seat; if all of the Interests conveyed at such time are Commercial, then the current Members shall elect a new director designate the position a Commercial Seat;

(c) Upon the earlier to occur of (i) three (3) years from the date the first Unit is conveyed to any person by Declarant or (ii) thirty (30) days after the conveyance of seventy-five percent (75%) of the Unit Interests by Declarant to purchasers, a special meeting of the Members shall be called, at which time all Directors, or their successors, shall tender their resignations, and the Members shall elect four (4) persons, with no more than one director at any time who is not a Member, in accordance with the provisions of Article 5.

**ARTICLE 3.  
VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES**

3.1 Voting.

(a) Each Unit is vested with a vote equal to the numerical equivalent of its percentage interest, so that the total number of votes is one hundred (100), fifty (50) of which are held by Residential Units and fifty (50) of which are held by Commercial Units. There shall be no cumulative voting.

(b) If a Unit is owned by more than one (1) person, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the Owners of the Unit and filed with the Secretary of the Association. If the owners of a Unit cannot agree on how to vote, such Unit shall lose its vote for the particular item to be voted upon.

(c) If a Unit is owned by a legal entity, the person entitled to cast the vote for the Unit ("Designee") shall be designated by a certificate of appointment signed by a duly authorized officer of such entity and filed with the Secretary of the Association. Certificates of appointment shall be valid until revoked or superseded by a subsequent certificate or a change in ownership to the Unit occurs.

3.2 Majority of Owners. A matter shall be deemed approved if approved by those Owners holding more than fifty percent (50%) of the votes to be cast on the particular matter to be voted upon.

3.3 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of voters holding thirteen (13) votes shall constitute a quorum.

3.4 Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting.

**ARTICLE 4.  
MEETINGS OF THE OWNERS**

4.1 Roster of Owners. Each Owner shall furnish the Association with the Owner's name and current mailing address. Until an Owner has furnished the Association with such information, the Owner may not vote at meetings of the Association.

4.2 Place of Meetings. The Board will designate the location of the Association meetings.

4.3 Annual Meeting. The annual meeting of the Association shall be held on the first Tuesday of August of each year. At the annual meeting, Directors may be elected by the Owners. The Owners may also transact such other business of the Association as may properly come before them.

4.4 Special Meetings. The President shall call a special meeting of the Owners if directed by resolution of the Board or upon a petition signed by the Owners with more than fifty percent (50%) of the Interests and presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

4.5 Notice of Meetings. The Secretary shall deliver or mail a notice of each meeting, stating its purpose and the time and place where it is to be held, to each Owner at the address shown on the roster, at least ten (10) days but not more than thirty (30) days prior to such meeting, unless waivers are duly executed by all Owners. The delivery or mailing of a notice in the manner provided in this Section shall be considered notice served, effective upon the date of delivery or mailing.

4.6 Adjourned Meetings. If a quorum is not established at a meeting, the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called and no additional notice shall be required.

4.7 Parliamentary Procedure. Except where inconsistent with these By-Laws, Association meetings shall be conducted in accordance with a current edition of Roberts Rules of Order.

4.8 Order of Business. The order of business at all meetings of the Members shall be as follows:

- (a) Roll call.
- (b) Proof of Notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of committees.
- (f) Election of directors (when applicable).
- (g) Unfinished business.
- (h) New business.

## **ARTICLE 5. BOARD OF DIRECTORS**

5.1 Number and Qualification. The Board of Directors shall be composed of four (4) persons, subject to the provisions of Section 2.3 and further subject to the following:

(a) At all times after the events described in Section 2.3(c) at least three (3) directors must be Members (including, for this purpose, Designees of Members that are legal entities).

(b) Exactly fifty percent (50%) of the director seats shall be designated to be elected solely by the Owners of Residential Units ("Residential Seats") and exactly fifty percent (50%) of the director seats shall be designated to be elected solely by the Owners of Commercial Units ("Commercial Seats"), pursuant to Section 5.2 below.

## 5.2 Election and Term of Office

(a) The Owners of Residential Units may cast their votes only for those director seats designated as Residential Seats, and the Owners of Commercial Units may cast their votes only for those director seats designated as Commercial Seats.

(b) The terms of office of the Directors shall be fixed as follows:

(1) The terms of the directors elected in accordance with Sections 2.3(a) and (b) shall expire on the date of the annual meeting next succeeding election. Thereafter, until the events described in Section 2.3(c) occur, the term of each director elected or re-elected in succession of this director shall be for two (2) years each and shall expire on the date of the annual meeting which is two (2) years following the date of such election or re-election.

(2) The terms of the Directors elected in accordance with Section 2.3(c) shall be as follows:

(A) The terms of two (2) directors, one of whom occupies a Residential Seat and one of whom occupies a Commercial Seat, shall expire on the date of the second annual meeting to be held after their election. Thereafter, the term of each director elected or re-elected in succession of this director shall be for two (2) years each and shall expire on the date of the annual meeting which is two (2) years following the date of election or re-election.

(B) The terms of the other directors elected under Section 2.3(c), one of whom occupies a Residential Seat and one of whom occupies a Commercial Seat, shall expire on the date of the third annual meeting to be held after their election. Thereafter, the term of each director elected or re-elected in succession of this director shall be for two (2) years each and shall expire on the date of the annual meeting which is two (2) years following the date of election or re-election.

At the time of the initial election of the Directors under this Section 5.2(b)(2), each candidate for election as director shall declare, before the votes are cast, the length of the term as director for which he or she is a candidate (as described in subsection 5.2(b)(2)(A) or (B)) and whether the candidate seeks a Residential Seat or a Commercial Seat.



Each director shall hold office until a successor is elected and the successor has attended his or her first meeting of the Board. If at any election more than one Residential Seat will be filled, each Owner of a Residential Unit shall cast votes for candidates equal in number to the number of open Residential Seats; provided, however, that a Residential Owner may not cast more than one (1) vote for each Unit owned by the Member for any single candidate. If at any election more than one Commercial Seat will be filled, each Owner of a Commercial Unit shall cast votes for candidates equal in number to the number of open Commercial Seats; provided, however, that a Commercial Owner may not cast more than one (1) vote for each Unit owned by the Member for any single candidate. The candidates who are elected shall be those receiving the greatest number of votes, in decreasing order, until the number of directors to be elected have been so elected.

5.3 **Powers and Duties.** The Board shall have the powers necessary to administer the Condominium including the following:

- (a) Make and enforce (including enforcement through the establishment of a system of fines), rules and regulations, and amendments thereto from time to time, respecting the operation, use and occupancy of the Condominium.
- (b) Adopt a budget and make and collect assessments from the Members in accordance with the provisions of the Declaration, and expend said assessments for insurance, taxes, utility services for and maintenance, repair and operation of the Common Elements of the Condominium as required under the Declaration or for such other purposes as fall within the responsibility of the Association and general powers of the Board;
- (c) Execute contracts on behalf of the Association, employ necessary personnel, and carry out all functions and purposes necessary for the operation of the Condominium;
- (d) Satisfy all liens against the Condominium and pay necessary expenses connected therewith;
- (e) Employ a professional property manager, management company or managing agent on a salaried basis to perform such duties as the Board shall authorize including but not limited to, the duties listed in this Section; and
- (f) Perform such other functions as are required by law.

5.4 **Fees.** No fee or other compensation shall be paid to any member of the Board at any time except by specific resolution of the Members.

5.5 **Vacancies.** A vacancy on the Board created by any reason other than removal by a vote of the Members or the resignation of a Declarant appointed director shall be filled by vote of the majority of the remaining Directors, even though they constitute less than a quorum. Each

person so elected shall be a director until a successor is elected at the next annual meeting of the Association.

5.6 Removal of Directors. At any regular or special meeting duly called, any one (1) or more of the Directors elected by the Members may be removed with or without cause by a majority of the Members and a successor elected by the Members to fill the vacancy thus created. Any director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

5.7 Organization Meeting. The first meeting of a Board of Directors, after one (1) or more Directors is newly elected, shall be held within thirty (30) days of such election at such place as determined by the Board at the meeting at which such Directors were newly elected. No notice shall be necessary in order to legally constitute such meeting, providing a majority of the whole Board shall be present.

5.8 Regular Meetings. Regular meetings of the Board may be held at such time and place as is designated by a majority of the Directors, but at least one (1) such meeting shall be held during each fiscal year. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone, email, or telefacsimile at least three (3) days prior to the day named for each meeting.

5.9 Special Meetings. A special meeting of the Board may be called by the President on three (3) days notice to each director, given personally or by mail, telephone, email, or telefacsimile, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner on the written request of at least two (2) or more Directors.

5.10 Waiver of Notice. Before or at any meeting of the Board, any director may waive notice of such meeting in writing and such waiver shall be deemed the equivalent of notice duly given. Attendance by a director at any meeting of the Board shall also be deemed a waiver of notice. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

5.11 Board Quorum. A majority of the Directors shall constitute a quorum for the transaction of business at all Board meetings. If, at any meeting of the Board, less than a quorum is present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the original meeting may be transacted without further notice.

5.12 Fidelity Bonds. The Association shall furnish and pay adequate fidelity bonds (or other reasonable protection) with respect to all officers and employees of the Association responsible for Association funds.

5.13 Liability of Directors and Officers. No director or officer of the Association shall be personally liable to the Association or Members for any loss or damage suffered on account of any action taken or omitted to be taken in that person's capacity as a director or officer of the Association if such person (a) exercised and used the same degree of care and skill as a prudent individual would exercise under the circumstances in the conduct of such individual's own

affairs, or (b) acted or took no action based upon advice of counsel for the Association or upon statements made or information furnished by officers or employees of the Association which was reasonably believed to be true. The foregoing shall not be exclusive of any other right or defense.

5.14 Unanimous Consent. Any action required or permitted to be taken by the Board under the Declaration, Articles of Incorporation or these By-Laws at a meeting may be taken without a meeting if a written consent setting forth the action so taken, is signed by all Directors then in office.

5.15 Indemnity of Directors and Officers.

(a) Every person who is or was a director or officer of the Association (together with the personal representatives and heirs of such person) shall be indemnified by the Association against all loss, costs, damages and expenses (including reasonable attorneys' fees) asserted against, incurred by or imposed in connection with or resulting from any claim, action, suit or proceeding, including criminal proceedings, to which such person is made or threatened to be made a party by reason of service as a director or officer, except as to matters resulting in a final determination of gross negligence or willful misconduct on the part of such director or officer. In event of settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of as a director or officer in relation to the matter involved. The Association, by its Board of Directors, may indemnify in like manner, or with any limitations, any employee or former employee of the Association, with respect to any action taken or not taken as an employee. This right of indemnification shall be in addition to all other rights and defenses.

(b) All liability, loss, damage, costs and expense incurred or suffered by the Association in connection with the foregoing indemnification shall be a common expense; provided, however, that nothing in this Section shall be deemed to obligate the Association to indemnify any Member who is or has been an employee, director or officer of the Association with respect to duties or obligations imposed by the Declaration, the Lease, Articles or these By-Laws due to status as a Member of the Association.

## ARTICLE 6. OFFICERS

6.1 Designation. The three (3) principal officers of the Association shall be a President, Vice President, and Secretary-Treasurer, all of whom shall be elected by the Board and serve one (1) year terms. The Directors may appoint an assistant treasurer and an assistant secretary, and such other officers as in their judgment may be necessary.

6.2 **Election of Officers.** The officers of the Association shall be elected annually by the Board at its organizational meeting following the annual meeting. Officers shall hold office at the pleasure of the Board.

6.3 **Removal of Officers.** Upon an affirmative vote of a majority of the Board, any officer may be removed, either with or without cause, and a successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

6.4 **President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties which usually vested in the office of president of a non-profit corporation, including, but not limited to, the power to appoint committees from among the Members from time to time as appropriate to assist in the conduct of the affairs of the Association.

6.5 **Vice President.** The Vice President shall take the place of the President whenever the President is absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint a director to serve in such capacity on an interim basis. The Vice President shall also perform such other duties imposed by the Board from time to time.

6.6 **Secretary.** The Secretary shall keep the minutes of all meetings of the Board and the Association. The Secretary shall have charge of such books and papers as the Board directs and in general, perform all duties incident to the office of Secretary. The Secretary shall count the votes cast at any annual or special meeting of the Association or the Board of Directors.

6.7 **Treasurer.** The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all Association receipts and disbursements. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, in such depositories as designated by the Board.

6.8 **Compensation.** No officer shall receive compensation for services rendered the Association unless authorized by a resolution of the Members.

## **ARTICLE 7. BUDGET, ASSESSMENTS AND DEPOSITORIES**

7.1 **Budget.** The Board shall adopt a budget for the operation of the Association at least annually, as provided in the Declaration.

7.2 **Assessments.** The estimate of Common Expenses shall be assessed against each Unit on an annual basis and paid in monthly installments as provided in Article 5 of the Declaration. Assessments and installments of assessments shall be paid on or before ten (10) days after the date when such assessments and installments are due. Any assessment or installment not paid within ten (10) days of its due date shall be delinquent and the Owner shall

be charged interest at the rate of twelve percent (12%) per annum on the unpaid assessment or installment of such assessment. Interest shall accrue from the date when the assessment or installment was first due until paid. All payments upon account shall be first applied to interest, if any, and then to the assessment payment first due.

7.3 Unpaid Assessment Could Cause Loss of Vote or Lien on Unit. No Owner who is more than ten (10) days delinquent in the payment of an assessment or installment on an assessment shall be entitled to vote at any regular or special meeting of the Owners. If a Owner fails to timely pay an assessment or installment such failure shall be in default and the Board shall take appropriate measures as allowed by the Declaration or at law, including, but not limited to, the filing of a statement of lien in accordance with the Declaration, which statement shall be signed and verified by the Secretary of the Association or any other officer authorized by the Board.

7.4 Depositories. The funds of the Association shall be deposited in such bank(s) or other depositories designated by the Board and shall be withdrawn therefrom only upon check or order signed by the officers who shall from time to time be designated by the Board for the purpose. The Board may elect to require Owners to pay assessments imposed by the Board directly to a designated depository. The Board may elect to direct that checks of less than Five Hundred Dollars (\$500) for payment of Association obligations bear only one (1) signature of a designated officer and that checks for a greater amount bear a signature and counter-signature of designated officers.

## ARTICLE 8. COMMON ELEMENTS

8.1 Use of Common Elements. No Member shall place or cause to be placed any objects of any kind in the Common Areas except in the Limited Common Areas appurtenant to only one Unit, and then subject to the Declaration and any Rules.

8.2 Right of Entry. Each Member grants a right of entry to the professional property manager, management company or managing agent (if any) employed by the Board or to any other person authorized by the Board to enter the Member's Unit for the purpose of performing non-emergency installations, alterations or repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Member. Each Member further grants to the Board a right of entry without advance notice in case of emergency, whether the Member is present or not. Damage or loss caused due to an emergency shall be at the expense of the owner of the Unit to which entry is made if, in the reasonable judgment of those authorizing the entry, such entry was for emergency purposes.

8.3 Pets and Other Animals. Each Unit may have the privilege of keeping certain Pets, and no other animals, within the Condominium, on the following conditions:

(a) A "Pet" is a domestic dog, cat or bird (other than large birds of prey) or aquarium fish, which are not maintained for breeding or commercial purposes. By virtue of this definition, no other animals are permitted to be on the Property as pets of any

Occupant of a Residential Unit. The Occupant(s) of a Commercial Unit may keep or permit on the Property other animals with permission of the directors with Commercial Seats on the Board.

(b) The Board may adopt a Rule further limiting the number or combination of Pets, but until such a Rule is adopted, no more than one (1) dog or one (1) cat may be kept per Unit, together with a reasonable number of birds or fish. No reptiles or uncaged birds shall be permitted within the Condominium, except as may be permitted in the Commercial Units by the directors with Commercial Seats on the Board.

(c) A dog must be under twenty four inches (24") in height when measured from the base of its fore-paw to the top of the corresponding shoulder, provided that a dog which complies with this requirement but subsequently grows to be non-complying shall be deemed at that time to not be in compliance, and provided further that the Board may in its sole and absolute discretion permit the keeping of a dog of up to twenty seven inches (27") in height measured as above if the Board believes that such dog will not pose a threat to the safety or welfare of the Condominium and the Owners.

(d) No Pet is permitted on any of the Common Elements unattended.

(e) The individual attending the Pet shall immediately dispose of any and all of the Pet's solid waste in the manner prescribed by the Board.

(f) The owner of each Pet shall comply with such further Rules of Pet ownership as may be promulgated by the Board.

(g) The Pet must be licensed by the City, if required under applicable ordinances.

(h) Each Pet must immediately and permanently be removed from the Condominium if, in the sole judgment of the Board, the Pet is or becomes: offensive; a nuisance; harmful in any way to the Condominium or any Owner or Occupant; or otherwise kept in violation of the terms of this Section or Rules. Possession of Pets on the Condominium shall not be considered a property right. The Board may, on a case by case or on a general basis, disallow any dog which is of a breed known to exhibit vicious tendencies including, but not limited to, pit bulls, filas, or rottweilers, or any mixed breed which includes any of the foregoing.

(i) Any and all costs of repairing damage caused by a Pet shall be borne by its owner.

(j) Any Owner failing to comply with any part of this Section shall, absent unusual circumstances under which the Board determines that some lesser or other remedial action is appropriate, be assessed a monthly animal fee in an amount of Five Hundred Dollars (\$500.00) per month or part thereof until the Owner has complied, in addition to any other remedy including the revocation of the license to maintain a Pet. Such animal fee shall be a special assessment and may be collected in the same manner as assessments under Article 5 of the Declaration.

(k) Within ten (10) days after obtaining any Pet or other animal, the Occupant maintaining such Pet or animal will register the same with the Association, providing such information as may be reasonably requested relating to the identity, size, number, breed, or other characteristics of the Pet or animal, and relating to the Occupant's contact information and understanding of the provisions of this Section and any Rules.

#### **ARTICLE 9. AMENDMENTS**

9.1 Amendments. These By-Laws may be amended by the Members in a duly constituted meeting convened for such purpose. No amendment shall take effect unless approved by the owners constituting at least seventy percent (70%) of the Interests, as defined in the Declaration. No amendment shall limit any right granted to or reserved by Declarant herein or in the Declaration.

#### **ARTICLE 10. MORTGAGES, STATEMENT OF UNPAID ASSESSMENTS**

10.1 Notice to Association. Any Member who mortgages a Unit shall notify the Secretary of the Association of such mortgage or mortgages and the name and address of the mortgagee(s). The Secretary of the Association shall maintain a record of the names and addresses of all mortgagees of which the Secretary is given notice.

10.2 Notice of Unpaid Assessments. Within ten (10) days of request by a mortgagee, proposed mortgagee or purchaser who has a contractual right to purchase a Unit, the Association shall furnish a statement setting forth the amount of the then unpaid assessments pertaining to such Unit. If any mortgagee, proposed mortgagee or purchaser of such Unit, in reliance upon such statement disburses mortgage loan proceeds or expends the purchase price, such mortgagee, proposed mortgagee or purchaser shall not be liable for, nor shall such Unit be subject to a lien which is not properly filed in accordance with law prior to the date of the statement, for any unpaid assessments in excess of the amount set forth in the statement. If the Association does not provide such a statement within ten (10) business days after such request, then the Association is barred from making claim for any delinquent assessments other than against any such mortgagee, proposed mortgagee or purchaser under a lien properly filed in accordance with law prior to the request for the statement.

10.3 Notice to Mortgagee. Any first mortgagee of a Unit making request to the Secretary, shall be entitled to written notice from the Association of any default by the Member upon whose Unit the mortgage is held in the performance of obligations set forth in these By-Laws, this Declaration and any amendments to the foregoing or all rules and regulations of the Association, which default is not cured within thirty (30) days after notice is provided to the defaulting Unit owner. Any notice required or permitted to be given to any mortgagee pursuant to these By-Laws shall be deemed given if mailed or delivered to such mortgagee at the address shown in such record and shall be deemed effective as of the date of mailing or delivery.

**ARTICLE 11.  
CONFLICTS**

11.1 **Conflicts.** These By-Laws are intended to comply with the Act and Declaration. If any provision of these By-Laws conflicts with the Act or the Declaration, the Act or Declaration will control.

**ARTICLE 12.  
FISCAL YEAR; TAX STATUS**

12.1 **Fiscal Year.** The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of each year. The Association is intended to qualify under Section 528 of the Internal Revenue Code as an organization intended for residential real estate management association. As such an organization, the Association is:

- (a) Organized and operated to provide for the construction, management, maintenance and care of Association property;
- (b) A minimum of sixty percent (60%) of the income received by the Association for each taxable year shall be received in response to assessments against its Members;
- (c) Ninety percent (90%) or more of the Association expenditures for each taxable year shall be spent on acquisition, construction, management, maintenance and care of Association property; and
- (d) No part of the net earnings of the Association shall inure to the benefit of any private shareholder or individual except as related to acquisition, construction or providing management, maintenance or care of Association property or by rebate of excess assessments to any Member.

12.2 **Tax Status.** The Association shall elect in the manner prescribed through regulation by the Secretary of the Treasury to have this section apply for each taxable year of the Association.

These By-Laws are adopted as of August \_\_\_\_, 2007.



### HOA DUES PAYMENT POLICY

1. Monthly payments are to be received by the Association no later than the 1<sup>st</sup> of each month. Payments are to be received at the Association Post Office Box or by electronic transfer to the bank.
2. Owners are strongly urged to set up automatic Bill Pay or automatic ACH transfers through their Bank to ensure timely payments. The Association will provide help setting this up if requested.
3. Owners will be contacted on or about the 10<sup>th</sup> of the month if a payment is not received.
4. If payment is not received by the Association by 12:00 Noon CST, within five (5) calendar days from the date of contact, the account will be placed with an attorney or professional service for collection **without further notice**. Use of expedited delivery and/or payment services is suggested to ensure the deadline is met on delinquent payments.

Please note that the "Declaration of Condominium" agreed to when the condominium was purchased specifies that an owner will be held responsible for all the Association's costs associated with collection where permitted to include; all attorney and other professional fees, court costs, costs associated with filing a lien, administrative and other fees, and interest beginning on the due date.

## EXECUTIVE SUMMARY

This Executive Summary is a brief summary of only some of the key provisions contained in the Condominium Documents for C. Reiss Condominium. It is not intended to be complete and you will need to review the attached Condominium Documents for an accurate and complete description of your rights and responsibilities under the Condominium Documents.

1. Condominium Identification. The name of the Condominium is C. Reiss Condominium.
2. Expansion Plans. None.
3. Governance. The name and address of the Condominium Association are found in the Articles of Incorporation. The Association will be managed by, and the name, address, and telephone number of the individual or individuals who may be contacted regarding the Condominium in general, are: Jennifer Zizzo, 1830 North Hubbard Street Suite 700, Milwaukee, Wisconsin, 53212, phone number (414) 727-7000.
4. Special Amenities. None.
5. Maintenance and Repair of Units. A description of an Owner's responsibilities for the repair and maintenance of the Unit. See Article 6 of the Declaration.
6. Maintenance, Repair, and Replacement of Common Elements. The identity of the person responsible for the maintenance, repair, and replacement of Common Elements and Limited Common Elements and whether repairs or replacements will be funded from Unit Owner assessments, reserve funds, or both. See Article 6 of the Declaration.
7. Rental of Units. Whether Owners may rent their Units and any restrictions on rentals. See Article 7 of the Declaration.
8. Unit Alterations. A description of any rules, restrictions, or procedures governing an Owner's authority to alter the Unit or use or enclose Limited Common Elements. See Article 7 of the Declaration.
9. Parking. See Article 7 of the Declaration.
10. Pets. See Section 8.3 of the By-Laws.
11. Reserves. The Association maintains reserves for repairs and replacement of Common Elements as set forth in the projected budget. A statutory reserve account under s. 703.163 is not maintained.
12. Fees on New Units. A description of any provisions exempting the Declarant or modifying the Declarant's obligation to pay assessments on the Declarant's unsold Units during the period of the Declarant's control, and any other provisions in the Declaration, By-Laws, or budget addressing the levying and payment of assessments on Units during the period of the Declarant's control. See Article 5 of the Declaration.

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13. **Amendments**. An indication that a Unit purchaser's rights and responsibilities may be altered by an amendment of the Declaration or By-Laws, and a description of the amendment process and requirements. See Article 10 of the Declaration and Section 9.1 of the By-Laws.

1839896

SHEBOYGAN COUNTY, WI  
RECORDED ON  
11/14/2007 01:33PM

ELLEN R. SCHLEICHER  
REGISTER OF DEEDS

RECORDING FEE: 17.00  
TRANSFER FEE:  
EXEMPTION #

STAFF ID 2  
TRANS # 107376  
# OF PAGES: 4

FIRST AMENDMENT TO DECLARATION OF  
CONDOMINIUM OF C. BRISS CONDOMINIUM

Document Number

Document Title

Recording Area

Name and Return Address

Hal Karas  
Whyte Hirschboeck Dudek S.C.  
555 East Wells St., Ste. 1900  
Milwaukee, WI 53202

Parcel Identification Number (PIN)

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clauses, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the document. **Note:** Use of this cover page adds one page to your document and \$2.00 to the recording fee. Wisconsin Statutes, 59.43(2m) WRDA 10/99

SCF-3122.0

**FIRST AMENDMENT TO  
DECLARATION OF CONDOMINIUM OF  
C. REISS CONDOMINIUM**

This First Amendment is made on October 29, 2007 to be effective retroactively as of August 22, 2007, by South Pier District I, LLC, a Wisconsin limited liability company ("Declarant").

Declarant executed the Declaration of Condominium of C. Reiss Condominium ("Declaration") creating the C. Reiss Condominium ("Condominium") on land described in the Declaration. The Declaration was recorded in the office of the Register of Deeds for Sheboygan County, Wisconsin on August 22, 2007 as Document No. 1834303. Declarant also caused to be recorded a Condominium Plat at Volume 14, Pages 284 – 289, as Document No. 1834302 ("Plat").

Except as otherwise defined herein, capitalized terms have the meanings ascribed thereto in the Declaration. The property affected by this First Amendment consists of all of the Units and their appurtenant interests in the Common Elements of the Condominium.

The Declaration provides in Section 10.1 that "this Declaration may be amended only by the written consent of Owners who represent at least seventy percent (70%) of the Interests, or such greater percentage as may be required by the Act." As of the date of this First Amendment, Declarant is the owner of more than 70% of the Interests.

The Declaration provides in Section 2.1 that the Condominium includes "eighteen (18) Residential Units ... as depicted on the Plat." The Plat, both as recorded separately and also as attached to the Declaration as Exhibit B, shows that there are eighteen Residential Units, including especially Unit 403. Unit 403, as depicted and marked on the Plat, has been fully constructed and exists. The Declaration further provides in Section 3.1 that "Each Unit shall have the number shown below, ... and has an Interest equal to the percentage shown below...." In the list that follows this language, Unit 403 was incorrectly and inadvertently missed. As a result, the Interest of each Residential Unit is incorrectly and inadvertently stated as 1/17<sup>th</sup> of 50%, or 2.9412% (subject to rounding errors), whereas it should in fact be stated as 1/18<sup>th</sup> of 50%, or 2.7778% (subject to rounding errors).

The purpose of this First Amendment is to confirm that at all times Declarant intended that there would be 18 Residential Units, as confirmed in other statements and plans, and by actual construction of the Residential Units, and that the Interests of the 18 Residential Units would be shared equally among themselves.

Now therefore, Section 3.1 of the Declaration is hereby amended to provide that "Res 403" is added to the list of "Res Units", and the Interest of each Residential Unit is adjusted to 2.7778%, subject to rounding errors as noted in Section 3.1. Since this action was always intended, this First Amendment is intended to be effective retroactively, and appropriate adjustments to the assessments levied by the Association against any of the Units will be made retroactively.

WRD\5336134.1

Executed as of the date first written above.

South Pier District I, LLC

By: [Signature]  
Member

The undersigned is executing this First Amendment pursuant to Section 10.1 of the Declaration



Reiss Condominium Association, Inc.

By: [Signature]  
President

Acknowledgments

STATE OF WISCONSIN )  
                                  ) SS  
COUNTY OF MILWAUKEE )

On this October 29, 2007, before me, a notary public, personally appeared Timothy J Dixon of South Pier District I, LLC, to me known to be the person described in and who executed the within instrument and acknowledged the same to be the free act and deed of such entity.

[Signature]  
Notary Public, State of Wisconsin  
My commission: ex-5/30/10

STATE OF WISCONSIN )  
                                  ) SS  
COUNTY OF MILWAUKEE )

On this October 29, 2007, before me, a notary public, personally appeared John Vetter of Reiss Condominium Association, Inc., to me known to be the person described in and who executed the within instrument and acknowledged the same to be the free act and deed of such entity.

[Signature]  
Notary Public, State of Wisconsin  
My commission: ex-5/30/10



This document was drafted by and should be returned to:  
Hal Koris, Esq. of Whyte Hirschboeck Dudek S.C., 555 East Wells Street, Milwaukee, Wisconsin 53202  
414-978-5499

**Consent of Mortgagee to First Amendment  
To Declaration of Condominium**

The undersigned is the holder of a mortgage encumbering the Units owned by Declarant and hereby executes this First Amendment in order to memorialize its consent to the actions described in the First Amendment. By signing this Consent, the undersigned does not accept any responsibility as the Declarant and has no obligations to any Owner under the Declaration.

Johnson Bank

By:

  
Douglas Menne, Vice President

**Acknowledgment**

STATE OF WISCONSIN     )  
  ) SS  
COUNTY OF MILWAUKEE    )

On this October 29, 2007, before me, a notary public, in and for said County, personally appeared Douglas Menne, of Johnson Bank, to me known to be the person described in and who executed the within instrument and acknowledged the same to be the free act and deed of such entity.





Notary Public, State of Wisconsin

My commission: 6/20/2010

1834303

SHEBOYGAN COUNTY, WI  
RECORDED ON  
08/22/2007 03:41PM

ELLEN R. SCHLEICHER  
REGISTER OF DEEDS

RECORDING FEE: 97.00  
TRANSFER FEE:  
EXEMPTION #

STAFF ID 2  
TRANS # 103432  
# OF PAGES: 44

**DECLARATION OF  
CONDOMINIUM OF  
C. REISS CONDOMINIUM**

Document Number

FOR EXHIBIT SEE Vol 14 P. 284/289  
DOC. # 1834302

Recording Area

Name and Return Address:

Hal Karas  
Whyte Hirschboeck Dudek S.C.  
555 East Wells St., Ste. 1900  
Milwaukee, WI 53202

PIN:

WHD113992906

44



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## **DECLARATION OF CONDOMINIUM OF C. REISS CONDOMINIUM**

This Declaration of Condominium of C. Reiss Condominium is made by South Pier District I, LLC pursuant to Chapter 703 of the Wisconsin Statutes, the Condominium Ownership Act.

### **Recitals**

Declarant is the sole owner of the leasehold interest in and the full ownership of the building on the real property located in the City of Sheboygan, Sheboygan County, Wisconsin, described on the attached Exhibit A and depicted on Exhibit B. By this Declaration, Declarant intends to submit the Property (as defined herein) to the condominium form of ownership and to establish certain easements, rights, restrictions, and obligations with respect to the ownership, use and maintenance of the Property. The Property and any and all improvements now or hereafter located thereon and any and all easement rights and appurtenant rights belonging thereto shall be known and described as C. Reiss Condominium; the condominium is also sometimes referred to as River Homes at C. Reiss Condominium.

### **Declaration**

Declarant by this Declaration (1) submits the Property to the condominium form of use and ownership as provided in the Act; (2) establishes and imposes the provisions, restrictions, conditions, easements and uses herein upon the Property; and (3) specifies that the provisions of this Declaration shall constitute covenants running with the land which shall be binding upon Declarant, and all subsequent owners and occupants of all or any part of the Property.

## **ARTICLE 1. DEFINITIONS**

The following terms shall have the following definitions:

1.1. Act. The "Act" shall mean the Wisconsin Condominium Ownership Act, as currently set forth at Chapter 703 of the Wisconsin Statutes, and as may be amended or renumbered from time to time.

1.2. Association. The "Association" shall mean the Reiss Condominium Association, Inc., established under Article 4 hereof. Wherever herein a matter is subject to the "Association," the use of the term "Association" does not necessarily mean that the entire Association is entitled to vote on a particular matter; the Association acts through its Board unless specifically stated to the contrary.

1.3. Association Insurance. "Association Insurance" shall mean all policies of insurance to be maintained by the Association under this Declaration.

WHD:1399290 h

- 1.4. Board. The "Board" or "Board of Directors" shall be the governing body of the Association, elected in accordance with the Bylaws.
- 1.5. Building. A "Building" shall be any freestanding structure located on the Property which contains Units, as defined in Section 1.32.
- 1.6. Bylaws. The "Bylaws" shall mean the Bylaws of the Association as adopted by the Board.
- 1.7. City. The "City" is the City of Sheboygan, Wisconsin.
- 1.8. Commercial Unit. A "Commercial Unit" means any Unit of the Condominium designated on the Plat as a "Commercial Unit" and which is limited to certain commercial uses as provided in Section 7.1(b).
- 1.9. Common Elements. The "Common Elements" consist of all of the Condominium, except for the Units and are composed of two categories. Certain Common Elements are available for the nonexclusive use and enjoyment of all Owners and Occupants and are referred to as the "General Common Elements." Other Common Elements are identified in the Declaration or on the Plat as reserved for the exclusive use of one or more, but less than all, of the Owners and are referred to as "Limited Common Elements."
- 1.10. Common Expenses. The "Common Expenses" are any and all expenses incurred by the Association in connection with the management of the Condominium, maintenance of the Common Elements and administration of the Association, including expenses for landscaping, lawn care, snow removal, obligations under the Ground Lease (see Article 16); improvements to the Common Elements, security lighting, Association Insurance premiums, municipal utility services for the Common Elements, maintenance and management wages, and fees of outside consultants.
- 1.11. Condominium. The "Condominium" shall be known as C. Reiss Condominium and shall mean the Property together with the Units and Common Elements as they are currently constructed or as they may hereafter be constructed on the Property.
- 1.12. Condominium Documents. The "Condominium Documents" are this Declaration, the articles of incorporation and Bylaws of the Association, and such Rules and Regulations as may be adopted by the Board pursuant to this Declaration or the Bylaws.
- 1.13. Cross-Parking and Access Easement Declaration. "Cross-Parking and Access Easement Declaration" shall mean that certain non-exclusive easement declaration recorded with the Sheboygan County, Wisconsin Register of Deeds Office, for purposes of vehicular and pedestrian ingress, egress, and traveling across the Property and adjacent property.
- 1.14. Declarant. The "Declarant" shall mean South Pier District I, LLC, along with the successors and assigns of South Pier District I, LLC pursuant to assignment in accordance with Section 17.7 of this Declaration.

1.15. Declaration. The "Declaration" shall mean this Declaration of Condominium of C. Reiss Condominium as the same may be amended from time to time.

1.16. Director. A "Director" shall mean a member of the Board.

1.17. Governmental Regulations. "Governmental Regulations" shall mean all laws, rules, regulations, ordinances, court orders or decrees issued or promulgated by any governmental authority, agency or instrumentality or any court having jurisdiction in connection therewith.

1.18. Ground Lease. "Ground Lease" shall mean that certain Ground Lease dated June 20, 2006 by and between Redevelopment Authority of the City of Sheboygan, Wisconsin, as landlord, and South Pier District 1, LLC, as tenant, as amended from time to time.

1.19. Interest. An "Interest" shall mean the proportionate undivided interest in the Common Elements appurtenant to each particular Unit in the Condominium.

1.20. Mortgage. A "Mortgage" shall mean a recorded first lien mortgage against a Unit or the vendor's interest under a recorded first lien land contract of the Unit.

1.21. Mortgagee. A "Mortgagee" shall mean the holder of a Mortgage.

1.22. Occupant. An "Occupant" shall mean the Owner or any other person residing in a Unit.

1.23. Owner. An "Owner" shall mean each fee simple owner of a Unit and each vendee of a Unit under a recorded land contract. The Declarant is an Owner with respect to each Unit to which it holds title.

1.24. Plan. "Plan" shall mean that certain Material Handling & Engineered Barrier Plan dated May 19, 2003 for the former C. Reiss Coal Company Property, Harbor Centre South Pier Remediation and Redevelopment Project.

1.25. Plat. The "Plat" shall mean that certain plat of condominium comprised of a plat of survey of the Property, building floor plans and unit addresses as recorded or to be recorded in the Register's Office and as the same may be amended from time to time. A copy of the Plat is attached hereto as Exhibit B.

1.26. Property. The "Property" shall mean the Declarant's leasehold interest in the real estate, together with all improvements located thereon and appurtenances thereto, subject to this Declaration, as described on the attached Exhibit A.

1.27. Register's Office. The "Registers Office" is the Office of the Register of Deeds for Sheboygan County, Wisconsin.

1.28. Residential Unit. A "Residential Unit" means any Unit of the Condominium designated on the Plat as a "Residential Unit" which are limited to residential uses as provided in Section 7.1(a).

1.29. Rule, or Rules. A "Rule" or the "Rules" shall mean singular or collectively each rule and regulation established by the Association as provided in Section 4.1.

1.30. Service Elements. "Service Elements" shall mean all utility, mechanical, electrical and plumbing services and systems, including, without limitation, lines, installations and appurtenances, for natural gas, electricity, water, sanitary sewer and storm water management located within the Condominium and also including heating, ventilating and air-conditioning systems, fire protection systems, security and monitoring systems, stairwells, elevators and other vertical penetrations, mechanical rooms, other service equipment and all equipment, ducts, lines, chimneys or flues located within the Condominium.

1.31. Turn Over Date. The "Turn Over Date" is the date on which the Declarant is required to cause, or voluntarily causes, the resignation of the Directors appointed by the Declarant as set forth in Section 4.4 (a), (b) or (c).

1.32. Unit. A "Unit" shall mean a separate freehold estate, consisting of the space bounded and described in Article 2, and includes the Interest of such Unit in the Common Elements of the Condominium. A Unit shall be either a Residential Unit or a Commercial Unit, as the context may require.

## ARTICLE 2. DESCRIPTION OF UNITS

2.1. Units. The Condominium shall include eighteen (18) Residential Units and one (1) Commercial Unit located in the Buildings as depicted on the Plat attached hereto as Exhibit B. The Plat shows floor plans for each Unit, including the layout, boundaries, and dimensions of each Unit. The Units shall be identified as numbered on the Plat. The Condominium is not subject to expansion.

2.2. Unit Boundaries. The boundaries of each Unit shall be as follows:

(a) *Upper.* The upper boundary of each Unit shall be the lower face of the joists supporting the ceiling above the highest level of the living or commercial area, extended to an intersection with the side boundaries.

(b) *Lower.* The lower boundary of each Unit shall be the upper surface of the unfinished floor of the lowest level of the Unit extended to an intersection with the side boundaries.

(c) *Side.* The side boundaries of each Unit shall be vertical planes of the inside surface of the studs supporting the interior walls (or the interior surface of masonry walls of Units), in either case extending to intersections with each other and with the upper and lower boundaries. Notwithstanding the foregoing, all doors and windows serving a Unit shall be included with such Unit, even if located within a Common Element.



### 2.3. Unit Description.

(a) The Unit includes all improvements now or hereafter located within such boundaries, including without limitation:

(1) the finished surface of each plane described above (be it drywall, tiles, wallpaper, paneling, carpeting, or otherwise covered) is included as part of each defined Unit. It is intended that the finished surface of each plane described above (whether covered by drywall, tile, wallpaper, paneling, carpeting, or otherwise) is included as part of each Unit.

(2) Windows and doors.

(3) Interior floor, wall, and ceiling-mounted electrical fixtures, outlets, and switches, and the conduits and recessed junction boxes serving them.

(4) Telecommunications, audio, video, or data outlets, including outlets, switches, hardware, and other appurtenances serving them.

(5) Plumbing fixtures, hot water heaters, fire sprinklers, if any, water softeners, if any, and the piping, valves, and other connecting and controlling mechanisms and devices lying between the fixture and the Common Element supply lines serving them.

(6) The heating, ventilating, and air conditioning system, including the furnaces, air conditioning equipment, the control mechanisms, all vents from the Unit to the exterior of the Condominium, including vents for furnaces, clothes dryer, range hood, all other exhaust fans, and such other vents appurtenant to each Unit, condensers and all connections thereto serving each Unit.

(b) The following items serving a particular Unit, although they may be outside the defined cubicle of air, shall also be part of the Unit:

(1) All interior floor, wall, and ceiling-mounted electrical fixtures, outlets, and switches, and the conduits and recessed junction boxes serving them.

(2) All telecommunications, audio, video, or data outlets to the Unit, and the conduits and recessed junction boxes serving them.

(3) All vents from the Unit to the exterior of the Condominium for furnaces, clothes dryer, range hood, all other exhaust fans, and such other vents appurtenant to the Unit.

(4) The controls for the heating, ventilating, and air conditioning systems of the Unit, all heat pumps serving the Unit exclusively, and all ducts, vents, wires, cables, or conduits designed or used in connection with such system that serve the Unit exclusively.

(c) Specifically not included as part of a Unit are those structural components of each Building and any portion of the plumbing, electrical, or mechanical systems of the

Building serving more than one (1) Unit or another Unit, even if located within a Unit. Any structural components, plumbing, electrical, mechanical, and public or private utility lines running through a Unit that serve more than one (1) Unit or another Unit are Common Elements. One example of the principles of this subsection is the steel girders which are exposed within certain Units and which are single structural girders that continue into the space of an adjacent Unit; such girders are Common Elements even though located within space that otherwise would be included within the definition of a Unit.

2.4. Merger and Separation of Units; Relocation of Unit Boundaries.

(a) *Residential Units.* The separation of any Residential Unit is not permitted. Physically adjacent Residential Units may, however, be merged by the Owner(s) of such Units as provided in Section 703.13 of the Act. Boundaries between Units shall not otherwise be relocated.

(b) *Commercial Unit.* The Commercial Unit may be separated or merged by the Owner(s) of such Commercial Unit, and if at any time there is more than one Commercial Unit then the boundaries between them may be relocated, all as provided in Section 703.13 of the Act. If the Commercial Unit is separated, then the Owner causing the separation may designate which resulting Commercial Unit or Commercial Units may exercise the special rights and privileges of the Commercial Unit Owner as set forth herein, and the manner of or limitation on such exercise to a particular resulting Commercial Unit.

2.5. Common Elements. Each Unit also has appurtenant Common Elements, which consist of both General and Limited Common Elements.

(a) General Common Elements. General Common Elements shall consist of all of the Condominium except the Units and the Limited Common Elements. Without limitation, the General Common Elements include the paved areas of the Condominium other than the parking spaces; the entryway/vestibule shown on the Plat; the trash/recycling area; the mechanical rooms shown on the Plat; and the Building roof and foundation and any and all columns, girders, beams and supports, structural columns, caissons, exterior and bearing walls, including underground foundation and any and all structural components regardless of where located.

(b) Limited Common Elements. Limited Common Elements of each Unit shall include those areas identified on the Plat as Limited Common Elements. The Limited Common Elements are reserved for the exclusive use of the Unit(s) to which they are appurtenant, subject to Section 2.7. The following specific provisions apply:

(1) The parking spaces shown on the Plat as numbers 1 through 24 are Limited Common Elements appurtenant to the Residential Units and may be assigned under Section 2.7.

(2) The parking spaces shown on the Plat as letters A through G are General Common Elements but may be assigned by Declarant and thereafter become Limited Common Elements appurtenant to either the Commercial Unit or one or more Residential Units, as provided in Section 2.7. Until such assignment by Declarant and conversion to status as a

Limited Common Element, such parking spaces may be subject to assignment and regulation by the Board. Parking spaces A through G are the only parking spaces considered the "outdoor parking spaces" referred to on sheet 3 of the Plat.

(3) The elevator servicing the Residential Units is appurtenant to all of the Residential Units even though it does not provide service to all such Units.

(4) The stairwells and stairways servicing the Residential Units are appurtenant to all of the Residential Units.

(5) Each patio, porch, deck, or balcony depicted on the Plat is appurtenant to the Unit to which it is attached.

(6) The entryway and corridor between the Commercial Units and stairwells and elevator servicing the Residential Units are appurtenant to the Commercial Unit, but is subject to the easement described in Section 15.9.

(7) The storage area located in the basement beneath the Commercial Unit, as shown on the Plat, is a General Common Element. It is not presently developed with storage lockers, but Declarant reserves the right to develop it with storage lockers and then assign those storage lockers as provided in Section 2.7, in which case each will become a Limited Common Element appurtenant to a Residential Unit. Declarant is not obligated to develop the storage area described above; and if Declarant does not develop such storage area before the Turn Over Date, the Association will have the exclusive right to develop such storage area and may assign the resulting storage lockers as Limited Common Elements in the manner as generally described in Section 2.7.

(8) The stairwells and stairways leading to the storage area described above are Limited Common Elements appurtenant to the Residential Units, but the doorways and corridor which are adjacent to such stairwells and stairways and which provide access between the Commercial Unit and the exterior of the Building is a General Common Element so that it may also be used by the Commercial Unit.

(9) The portion of the ground floor walkway area adjacent to the exterior of the Building where it encloses the Commercial Unit, located underneath an architectural overhang that encloses the Residential Units above the Commercial Unit, as shown on the Plat, is a General Common Element, but the Owner of the Commercial Unit may segregate a portion of it (either temporarily, as by installing ropes or by installing demarcations on the pavement, or permanently) and incorporate its use into the commercial activities which occur in the Commercial Unit (for example, but without limitation, if the Commercial Unit is used to sell coffee or ice cream products, then the operator of such business may wish to install outside seating for use by customers); provided that the Commercial Unit Owner gives notice to the Board, offers commercially reasonable insurance coverage over such operations, and exercises its rights under this subsection in a commercially reasonable manner.

2.6. Conveyance of Certain Limited Common Elements. The Owner of a Unit may convey by deed to any other Owner the right to use the following Limited Common Elements: the parking space and/or storage area appurtenant to such Unit, if any, and such parking space or

storage area shall thereafter be appurtenant as Limited Common Elements of the Unit specified in such deed.

2.7. Initial Designation by Declarant. Parking spaces and storage lockers are available to be conveyed by Declarant as Limited Common Elements, but such spaces and lockers have not yet been designated by Declarant as appurtenant to particular Units. Declarant may designate particular spaces and/or lockers for particular Units by deed or other recorded instrument and such spaces and/or lockers shall thereupon be Limited Common Elements of such Units. Until such designation, Declarant shall have the exclusive right to use such spaces and lockers. Declarant shall have the continuing right to so designate spaces and/or lockers even after all Units have been conveyed by Declarant, provided that spaces and/or and lockers may only be designated or used in connection with Units or the Association.

**ARTICLE 3.  
PERCENTAGE INTERESTS**

3.1. Unit Interest. Each Unit shall have the number shown below, be characterized as a Residential or Commercial Unit as shown below, and has an Interest equal to the percentage shown below:

<u>Res Unit</u>	<u>Interest</u>	<u>Res Unit</u>	<u>Interest</u>	<u>Comm Unit</u>	<u>Interest</u>
Res 101	2.9412%	Res 307	2.9412%	Comm 1	50.00%
Res 102	2.9412%	Res 308	2.9412%		
Res 201	2.9412%	Res 309	2.9412%		
Res 202	2.9412%	Res 310	2.9412%		
Res 203	2.9412%	Res 311	2.9412%		
Res 301	2.9412%	Res 312	2.9412%		
Res 302	2.9412%	Res 401	2.9412%		
Res 305	2.9412%	Res 402	2.9412%		
Res 306	2.9412%				
<b>Res Sub Total</b>		<b>50%</b>		<b>Comm Sub Total</b>	
				<b>50%</b>	

It is intended that the Residential Units collectively have an Interest of 50%. A rounding error may result from adding the percentages stated above.

**ARTICLE 4.  
ASSOCIATION OF UNIT OWNERS**

4.1. Administration. The Declarant shall create the Association, which shall be incorporated and shall adopt Bylaws for the governance and administration of the Condominium. The Association shall administer the Condominium and the provisions of this Declaration and the Bylaws, acting through its Board. The Board shall always consist of an even number of Directors, split evenly between (a) representatives of Residential Units, who will be elected solely by the Owners of Residential Units, and (b) representatives of the Commercial Unit, who will be elected solely by the Owners of the Commercial Unit. If a Director is elected by an entity

which owns a Commercial Unit, then during the term of service of such designee on the Board, any replacement for such designee may be appointed at any time by such Owner in its discretion.

4.2. Rules. From time to time, the Board may, but need not, adopt and amend Rules regarding the use of the Common Elements and other matters concerning the Condominium and Association, provided such Rules are not inconsistent with this Declaration or the Bylaws and that such Rules will not unreasonably burden or interfere with the use of the Commercial Unit for its intended purposes. At the request of the Owners of the Commercial Unit, the Board shall have the authority to adopt Rules regulating the above ground parking at the Property which will solely serve the Commercial Unit. After adoption, the Rules shall be binding upon all Owners and Occupants. From time to time, the Directors representing the Residential Units or the Commercial Unit may adopt Rules which affect only the Units represented by such Directors, and such Rules shall be binding only on the Owners and Occupants of such Units.

4.3. Membership and Voting. Each Owner shall be a member of the Association and membership shall commence and terminate with ownership. Each Unit shall be vested with a vote equal to the numerical equivalent of its percentage Interest, so that the total number of votes is one hundred (100), to be cast as set forth in the Bylaws. Declarant shall be entitled to cast the votes pertaining to any Unit owned by Declarant.

4.4. Control of Association. The Declarant shall have the right to appoint and remove the officers of the Association and to exercise any and all of the powers and responsibilities assigned to the Association and its officers by the Articles, Bylaws, the Act, this Declaration, and the Wisconsin Nonstock Corporation Law, from the date the first Unit is conveyed by the Declarant to any person other than Declarant, until the earliest of: (a) three (3) years from such date; or (b) thirty (30) days after the conveyance of seventy-five percent (75%) of the Interests to Owners other than Declarant; or (c) Declarant's election to waive its right of control. Prior to the conveyance of twenty-five percent (25%) of the Interests to Owners other than Declarant, the Association shall hold a meeting, and the Owners other than the Declarant shall elect at least twenty-five percent (25%) of the Directors. Prior to the conveyance of fifty percent (50%) of the Interests to Owners other than Declarant, the Association shall hold a meeting, and the Owners other than the Declarant shall elect at least thirty-three and one-third percent (33 1/3%) of the Directors. Not later than forty-five (45) days after the Turn Over Date, the Association shall hold a meeting and the Owners shall elect the Board and officers of the Association.

4.5. Management. The Association may employ a professional management agent or company for the Condominium with such experience and qualifications and on such terms and conditions as are acceptable to the Board. Any such agreement must be terminable with or without cause upon ninety (90) days notice without payment of any penalty.

4.6. Approvals. Any proposal by an Owner requiring Board approval shall be submitted in writing, in such detail and with such supporting documents as the Board may require to facilitate its understanding and review. The Board may approve or disapprove any proposal after considering one or more of the following concerns and any additional criteria the Board deems prudent: (a) freedom and safety of access and convenience to other Units; (b) requiring the written agreement of the Owner making the proposal to pay the costs of restoring Common Elements affected by such proposal to their prior physical condition upon the

termination of such use; and (c) requiring the Owner's written agreement to pay a fair and reasonable monthly charge to the Association for any encroachment on Common Elements resulting from the proposal. The Board may at its discretion impose further conditions upon its consent to any proposal as it deems appropriate. Approval of a proposal shall be deemed given if the Association president (i) indicates in writing or (ii) fails to respond within sixty (60) days following the Owner's written submission of a proposal unless, prior to the expiration of such period, additional information is requested of the Owner by the Board or the Board issues its written refusal.

## **ARTICLE 5. ASSESSMENTS**

5.1. Budget and Assessments. The Association shall annually adopt and distribute to all Owners a budget of Common Expenses and levy general and special assessments therefor against the Units, except as set forth herein. The budget shall include the funding of an adequate replacement reserve out of general assessments and shall set forth the following: (a) all anticipated Common Expenses and any amounts to be allocated to a statutory reserve account, if any, and to any other funds for future expenditures, (b) the amount and purpose of any other anticipated Association expenditure, (c) the amount in any statutory reserve account or any other funds held for future expenditures, (d) any common surpluses, (e) the amount and source of any income, other than assessments from Owners, and (f) the aggregate amount of any assessment to be levied against Owners and the purpose of the assessment. Notwithstanding the above, certain Common Expenses will be allocated in the budget as follows:

The following Common Expenses shall be deemed "Commercial Common Expenses": all expenses incurred for the maintenance, washing, and repair of the windows of the Commercial Unit; all expenses incurred for the exterior lighting and signage of the Commercial Unit; all expenses incurred in removing trash and garbage from the Commercial Unit except to the extent that the Commercial Unit uses the trash area which is part of the General Common Elements; all actual water charges incurred as evidenced by the sub-meter servicing the Commercial Unit; and all expenses incurred with respect to the mechanical equipment used for the Commercial Unit. All Commercial Common Expenses shall be assessed only against the Commercial Unit.

The following Common Expenses shall be deemed "Residential Common Expenses": all expenses incurred for operating utilities in, maintaining, repairing, painting, and cleaning the interior hallways between the Residential Units; all expenses incurred with respect to maintaining, repairing and/or replacing the elevator in the Building; all expenses incurred with respect to maintaining, repairing and/or replacing the balconies or patios on the exterior of the Building appurtenant to the Residential Units; all expenses incurred with respect to maintaining, repairing and/or replacing the windows and doors to the Residential Units; all water charges less those allocated to the Commercial Unit above. All Residential Common Expenses shall be assessed only against the Residential Units, and each owner of a Residential Unit shall pay its pro-rata share of such Residential Common Expenses. Any disputes as to the allocations described above shall be resolved by binding arbitration, in accordance with the American Arbitration Association rules and procedures.

5.2. General Assessments. The Association shall levy assessments based on each budget. The budget shall be allocated pro rata based on the Interests of each Unit, except as otherwise set forth in this Declaration.

5.3. Special Assessments and Charges. The Association may also levy (a) special assessments on all Owners for any purpose for which a general assessment may be levied, (b) special assessments or fines on a particular Owner for the purpose of collecting any amounts due the Association or enforcing compliance of such Owner with any provision of the Condominium Documents, including assessments under Sections 6.3, 6.7, or 13.2, or (c) special assessments for other charges and amounts owing to the Association.

5.4. No Statutory Reserve. Prior to the Turn Over Date, no reserve account established hereunder shall be deemed to be a statutory reserve account pursuant to Section 703.163 of the Act. The Declarant acknowledges that it is not establishing a statutory reserve account for the Condominium and anticipates that future expenditures for the repair and replacement of Common Elements will be funded through a reserve account established and funded pursuant to the terms of this Declaration.

5.5. Installments; Late Payments. General assessments shall be made on an annual basis but shall be due and payable in monthly installments on the first day of each month. Special assessments shall be due and payable at such time and in such manner as the Board may determine. Any assessment or installment of an assessment not received by the Association within ten (10) days of its due date may be subject to a late charge and/or interest as set forth in the Bylaws or in the Rules.

5.6. Enforcement; Liens. If an Owner defaults in any payment, the Association shall take appropriate measures as provided by law; provided that in the exercise of reasonable business judgment, the Board may elect not to take such measures in cases of hardship or unlikelihood of recovery. The defaulting Owner shall be responsible for all costs incurred by the Association in seeking to enforce payment including reasonable attorneys' fees. Owners shall be both personally liable for assessments and a lien shall be imposed against such Owner's Unit for any unpaid assessments. Liens for unpaid assessments shall also extend to and secure interest, fines, and reasonable costs of collection, including attorneys' fees incurred by the Association incident to the collection of assessments or enforcement of liens. The Association may purchase a Unit upon the foreclosure of its lien.

5.7. First Installment. The first installment of general assessments for each Unit shall be due and payable commencing not later than sixty (60) days after the date of recordation of the first instrument of conveyance of a Unit except that if at such time an occupancy certificate for such Unit has not been issued by the City of Sheboygan, then the first installment shall be due and payable commencing with the month in which the occupancy permit is issued. Installments for partial months shall be prorated.

5.8. Payment of Assessments by Declarant. Prior to the Turn Over Date:

(a) No general assessments shall be made against any Unit owned by Declarant, but the general assessments payable by other Owners, however, shall not exceed the

amount that the Owners would have paid if the Declarant's Units were subject to full general assessments, based on the annual operating budget then in effect.

(b) Declarant shall pay the deficit if the total general assessments payable by Owners other than Declarant do not cover the total Common Expenses budgeted. For this purpose only, the general assessments for which Declarant will be responsible will not include amounts in the budget or actually expended relating to a reserve for capital expenditures or reserve for uncollectible assessments imposed on Owners other than Declarant.

(c) Declarant may, but shall not be obligated to, directly pay bills or provide services which would otherwise represent Association obligations to which regular assessments would be applied. Declarant shall be entitled to offset expenses incurred by Declarant in performing or paying for such Association obligations against amounts otherwise due under this Section.

5.9. Initial Working Capital Fund. Each Owner who purchases a Unit from Declarant shall, at the time of conveyance, pay to the Association an amount equal to two (2) months installments of the general assessment provided for in this Article, or such greater amount as designated by the Board. Amounts paid under this Section shall not be considered advance payments of installments of general assessments, but shall be maintained as working capital and kept in a segregated account. The working capital fund may not be used by Declarant to defray Declarant expenses, reserve contributions or construction costs. Upon the expiration of Declarant control, this fund, to the extent the Board so designates, may be held to meet unforeseen expenditures or to supplement the replacement reserve.

5.10. Association Statements. Within ten (10) days of written request from an Owner or Mortgagee, the Association shall provide a letter stating the existence of outstanding general or special assessments against the Unit, if any. Notwithstanding anything to the contrary in the preceding sentence, all Units conveyed by Declarant shall be deemed conveyed free from outstanding general, special, or working capital assessments and no such letter shall be required or given as to such Units.

5.11. Common Expenses and Surpluses. Except as otherwise provided in this Declaration, Common Expenses and surpluses shall be allocated among all Owners according to the Interest applicable to their Units. All common surpluses of the Condominium for each of its fiscal years shall be retained for Common Expenses of the Condominium for the next succeeding fiscal year.

5.12. Records. The Association shall keep detailed, accurate records using standard bookkeeping procedures 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. The records and vouchers authorizing such payments shall be available for examination by Owners at convenient hours. Until the first anniversary of the Turn Over Date, upon written request to the Association by the lesser of three (3) Owners or the Owners of ten percent (10%) of the Units other than Units owned by Declarant, the Association shall arrange for an independent audit of its financial records; provided, however, that no request may



be made for an audit within twenty-four (24) months after the completion of a previous audit. Declarant shall turn such records over to the Board promptly after the Turn Over Date.

## **ARTICLE 6. MAINTENANCE AND ALTERATIONS**

6.1. Owner Responsibility. Each Owner, at the Owner's sole cost, shall be responsible for:

(a) Keeping its Unit in good order, condition and repair and in a clean and sanitary condition. Without in any way limiting the foregoing, each Unit Owner shall be responsible for the maintenance, repair or replacement of any lighting fixtures, refrigerators, ranges, plumbing fixtures, dishwashers, disposals, laundry equipment such as washers and dryers, the air conditioning, heating and hot water systems and equipment, any chutes, flues, exhaust fans, ducts, conduits, wires, cables, electrical, security, telephone, television, wall safes, medicine cabinets, built in shelving and all communication systems, water, sewer and gas mains and laterals and all other utility lines and distribution systems and fixtures and any portions thereof exclusively serving that Unit.

(b) Providing for the reasonable security and safety of such Unit and shall be liable for damages caused to any other Unit(s), or the Common Elements, to the extent not covered by insurance, as a result of a breach of such duty.

(c) Maintaining the temperature of the Unit at or above 50° Fahrenheit at all times of year, regardless of use of the Unit.

6.2. Owner's Liability for Association Maintenance. Notwithstanding Section 6.1 and except as provided in Section 7.4 below, the Association shall perform the following, but at the sole cost and expense of the Owner(s) whose Unit(s) are affected by any of the following:

(a) Replace, repair, paint, maintain and adorn external features and portions of any conduits, wires, cables, water, sewer and gas mains and laterals and all other utility lines and distribution systems lying above or under any Common Element.

(b) Repair any damage to the Common Elements caused by a Unit Owner's failure to discharge his or her obligations pursuant to Section 6.1.

(c) Replace, repair, paint, maintain and adorn any Common Elements damaged by such Owner's Occupant.

6.3. Association Responsibility. The Association shall maintain in good condition and operate, repair, and replace all of the Common Elements and Limited Common Elements appurtenant to all Units, even if an Owner is responsible for payment of the expenses of such actions. By virtue of this provision, the Association may determine, for example, the frequency of regular maintenance of balconies, or the need for special repairs to particular balconies, and the costs of such actions may be assessed to all, or to particular affected, Owners.

6.4. Special Notice Regarding Paved Areas. The paved areas of the Property are a part of the Common Elements and, accordingly, must be maintained (including snow removal), repaired and replaced from time to time by the Association. The costs of such matters will be included within the Association budget and paid in accordance with Section 5.1 and may be the subject of special assessments as determined by the Board.

6.5. Repair and Replacement Standards. All repairs and replacements shall, to the extent reasonably possible, be done in a manner which is substantially similar to the quality and appearance of original construction and installation.

6.6. Alterations to Unit or Common Elements. A Unit Owner or Occupant must obtain prior approval in accordance with Section 4.6 before making any alterations to the Common Elements, except that the Owner of the Commercial Unit need not seek or obtain such prior approval if, in the reasonable opinion of such Owners, the alterations to be made will not materially adversely affect: the structural integrity of the Building; the service quality of any Service Elements; the thermal or acoustical character of the Building; or any easement appurtenant to any Unit or the Condominium. The exterior walls of the Building may but need not be altered at the discretion of the Commercial Unit Owner provided that applicable governmental approvals for such construction have been obtained. Those alterations requiring prior approval must be made in compliance with all provisions of the Condominium Documents. All work done shall be completed in a good, workmanlike manner and free from all liens. Any Unit Owner (including tenants of the Commercial Unit) who makes any alterations shall be deemed to have indemnified and held harmless the other Unit Owners, the Board, the Declarant and the Association from and against all claims of third parties for personal injury or property damage from work performed in connection with any alterations. The president of the Association shall sign any Plat amendment made necessary by the construction of an alteration and, when the above conditions have been met shall deliver the same to the Unit Owner.

6.7. Right of Commercial Unit Owner to Compel Facade Improvements. If the Commercial Unit Owner desires an improvement or repair to the facade of the Building which the Association after request by the Commercial Unit Owner declines to make, the Commercial Unit Owner may compel the Association to make such improvement or repair, and the Association shall thereupon make the repair or improvement and shall have the power to assess the Units therefor. The rights of the Owner of the Commercial Unit under this Section shall be without prejudice to any right it may have to compel the improvement or repair if the failure to make the same is a breach of the Association's duty under Sections 6.3 or Article 8.

## **ARTICLE 7. RESTRICTIONS ON USE AND OCCUPANCY**

7.1. Permitted Uses. The occupancy and use of the Condominium shall be subject to the following restrictions:

(a) Residential Units may be used for residential purposes only, and for no other purpose unless otherwise authorized by the Association prior to the commencement of such use. No trade or business shall be carried on within a Residential Unit, except for: (1) the incidental use of a Unit for personal business conducted by mail and telecommunications which

does not burden the use of the Common Elements by frequent visits by business service providers or customers, subject to any Rules relating to such burdens, or (2) the sale or lease of Units, subject to the other provisions hereof and any Rules related thereto, or (3) the establishment of offices by Declarant, the assignee of Declarant's rights, or Declarant's agents for sale of Units, or by the Association for conducting its affairs. Examples of trades or businesses permitted under this section may include dealers in custom jewelry or software programmers, subject to any Rules which the Board may adopt relating to such trades or businesses.

(b) The Commercial Unit may be used for retail, restaurant, office, and appurtenant and accessory purposes, provided such purposes are not otherwise prohibited by law.

#### 7.2. Leases of Units.

(a) An Owner of a Residential Unit may lease the Unit provided that the term of the lease is not less than six (6) months; there are no restrictions on the leasing of the Commercial Unit. Before any lessee occupies a Unit, the Owner shall provide a copy of the Condominium Documents to such lessee. Each lease of a Unit shall require that the lessee comply with the terms and provisions of the Act and the Condominium Documents and shall further provide that a breach of the Condominium Documents or Act shall be deemed a default under the lease. Within five (5) business days after entering into or renewing a lease for a Residential Unit, the Owner shall provide a copy of such agreement to the Association.

(b) Without regard to the liability of a lessee, tenant or other Occupant, an Owner shall be responsible to the Association and each other Owner for any breach of any provision of the Condominium Documents caused by a lessee or an Occupant. The Association will only need to deal with the Owner and may, but shall not be obligated to, address any breach with the offending lessee or Occupant.

7.3. No Time Shares. No Unit shall be subject to any time share or similar arrangement, whether or not under Wis. Stats. Chapter 707.

7.4. Signs. No Owner, except Declarant or the Commercial Unit Owner, may erect, post, or display posters, signs, or advertising material on the Common Elements or at locations within a Unit that are visible from the Common Elements without the prior written consent of the Board. Where Board consent is sought and obtained, the permitted signs shall be erected and maintained in accordance with all ordinances, Rules, regulations, and conditions applicable thereto. The Owner of the Commercial Unit may erect, post, or display signs on the interior or exterior of its Unit, or the exterior surface of the Building, without obtaining consent of the Board, provided it shall be solely responsible for the cost of erection of such sign, any structural damage caused by such sign and the maintenance, repair or replacement of such sign. "Signs" as used herein shall be construed and interpreted in the broadest possible sense and shall include any placard, posters or other such devices as may be affixed to the interior of any exterior windows so as to be visible from the exterior of the Building.

7.5. No Obstructions. No person shall cause or permit the Common Elements to be used so as to deny any Owner or Occupant the full use of the Common Elements or its Unit,

except as may be approved by the Board on a temporary basis pursuant to Section 4.6. No Owner of a Residential Unit located on the ground floor of a Building may erect or construct a fence, border, or barricade on or around the patio and/or garden area appurtenant to their Unit without obtaining prior approval from the Board pursuant to Section 4.6.

7.6. Parking and Exterior Storage. No outdoor parking of vehicles shall be permitted anywhere on the Condominium, except in spots marked for parking. Subject to the other provisions of this Declaration, the Board may adopt Rules further regulating parking, but no such Rule may limit parking for the Commercial Unit customers in spaces which are appurtenant to the Commercial Unit or which are General Common Elements during the hours that the Commercial Unit is open for business and no such Rule may prohibit parking by the Owner or Occupants of the Commercial Unit for purposes of the business conducted therein. No person shall occupy, park or otherwise use a vehicle so as to block access. Exterior storage of trailers, campers, camping trucks, boats or other marine craft, house trailers, motorcycles, mopeds, motorized bicycles, snowmobiles, land vehicles, inoperative or unlicensed vehicles or the like shall not be permitted on the Condominium. No vehicle maintenance or lubrication shall be permitted anywhere in the Condominium, except washing of cars in an area as the Board may permit by Rule. No playground equipment, bicycle racks or other obstructions may be placed on the Common Elements except as the Board permits by Rule. Balconies and patios shall not be used for storage. The Board may adopt Rules that further limit or prohibit storage on the Common Elements, but no such Rule may unreasonably restrict the use of the Limited Common Elements appurtenant to the Commercial Unit for purposes related to the use of the Commercial Unit.

7.7. Waste. Accumulations of waste, litter, excess or unused building materials or trash other than in appropriate receptacles is prohibited, and garbage containers shall be situated only in locations designated by the Board.

7.8. Antennas. No antenna, aerial or cable for television or radio reception shall be erected or installed on or in any roof or any other portion of the Condominium, except as erected or installed by Declarant, or the Commercial Unit Owner, or by the Association, or by any individual Owner with written approval of the Board.

7.9. Temporary Structures. No structure, trailer, tent, shack or barn, temporary or otherwise, shall be placed or maintained on any portion of the Condominium without written approval of the Board, except for construction trailers maintained by Declarant or the Association.

7.10. Quiet Enjoyment. Each Owner shall have the right to use its Unit in accordance with this Declaration and all Governmental Regulations, free from unreasonable interference from other Owners and Occupants. Residential Units are located above and near the Commercial Unit and are advised that the uses of the Commercial Unit may cause traffic, noise, or other disruptions.

7.11. Noxious Activity. No use or practice shall be allowed on the Condominium which is immoral, improper or offensive in the opinion of the Board or which is in violation of the Condominium Documents. By way of example and not limitation, offensive activity shall

include excessive amplification of musical instruments and/or audio or audio visual equipment. No gas, charcoal, wood or other "grilling" will be permitted on patios or decks appurtenant to Residential Units except in accordance with the Governmental Regulations; the Board may also adopt Rules which regulate grilling on either a case by case or on a general basis. The lawful commercial uses of the Commercial Unit and its Limited Common Elements are not noxious activities.

7.12. Environmental Matters. Each Owner and Occupant shall comply with all applicable Governmental Regulations or Rules relating to the storage, transport and release to, from, on or in such Unit of any substance or compound governed by any one or more of Wis. Stats. Chap. 144; CERCLA; TOCSA; RCRA; amendments to any of the foregoing; and similar laws now or hereafter in effect relating to the storage, transport or release of substances and compounds.

7.13. Uniformity of Appearance. The Association may, by Rule, require standards for the materials, colors, treatments and decorations for and on exterior doors and windows of Residential Units.

7.14. Pets. Pets shall be allowed within a Unit or the Common Elements, subject to the Bylaws and any Rules.

#### **ARTICLE 8. RECONSTRUCTION AND CONDEMNATION**

8.1. Reconstruction. In the event of fire, casualty or any other disaster affecting one or more of the Units or Common Elements (the "Damaged Premises"), subject to the provisions of the Ground Lease, the Damaged Premises shall be reconstructed and repaired, unless otherwise determined as provided below. Reconstruction and repair shall mean restoring the Damaged Premises to substantially the same condition as existed prior to the fire, casualty or disaster, and in accordance with the maps, plans and specifications used in the original construction insofar as practicable. The Board may authorize changes to the same with the consent of the Mortgagees of the Units so affected and with the recordation of an amendment to this Declaration noting the effects thereof.

8.2. Insufficient Proceeds. If insurance proceeds are insufficient to reconstruct or repair Common Elements, then, except as otherwise provided in Section 8.3, the Owners of all Units shall be assessed according to their Interests for the deficiency relating to the reconstruction or repair of Common Elements comprising Damaged Premises. The provisions of Article 5 shall apply to all sums assessed for any deficiency.

8.3. Partition. If the insurance proceeds are insufficient to reconstruct or repair the Common Elements (excluding any deductibles under the Association Insurance), subject to the provisions of the Ground Lease, the Condominium shall be subject to an action for partition upon obtaining the written consent of all Owners and Mortgagees. If such approval is not obtained within thirty (30) days from the date of adjustment of insurance proceeds following the fire, casualty or other disaster, then no such action for partition shall be maintained or initiated. For

purposes of this Section, proceeds are not "insufficient" solely by reason of a deductible under the association insurance.

8.4. Control of Adjustment and Restoration. The Association shall have the sole power to settle adjustments with the insurance carrier for Association Insurance. The Association shall have the sole power to engage contractors to restore the Common Elements, and insured portions of the Units. The Association shall have no responsibility to repair, reconstruct or replace any improvements in a Unit which are not insured by Association Insurance or any improvements installed or altered subsequent to initial construction of the Unit.

8.5. Construction Fund. Insurance proceeds and special assessments under Section 8.2 shall constitute a construction fund, with insurance proceeds disbursed first. Any surplus funds shall be held or distributed to the Owners and their Mortgagees as their interests may appear, in accordance with their Interests.

8.6. Condemnation. If all or any portion of the Condominium is taken under the power of eminent domain or sold in settlement or anticipation of any pending or threatened proceeding, this Section, subject to the provisions of the Ground Lease, shall control. Each Owner of an affected Unit shall have the right to appeal the necessity of the taking and of the amount of condemnation award with respect to its Unit and Limited Common Elements appurtenant to such Unit. The Association shall have the exclusive right of appeal of the necessity of the taking and the amount of the condemnation award with respect to the General Common Elements. Any settlement or decision on an appeal by the Association as to the General Common Elements shall be binding upon all Owners. Damages shall be awarded and Interests shall be adjusted as follows:

(a) Each Owner is entitled to the entire award for the taking of all or part of its Unit and Limited Common Elements appurtenant to such Unit and for consequential damages to the Unit.

(b) If no reconstruction is undertaken, any award for the taking of General Common Elements shall be allocated to all Owners in proportion to their respective Interests.

(c) Where an entire Unit is taken, the Interests and votes on Association matters appertaining to the remaining Units shall be adjusted post-condemnation. A partial taking of a Unit shall not include the Interest or vote appurtenant to the Unit. If Interests or votes are affected, the Association shall record an amendment which discloses the nature of the taking and adjustments caused thereby. Following the taking of all or a part of the Units or Common Elements, the Association shall promptly undertake to restore the Common Elements to an architectural whole. Costs of restoration of Common Elements in excess of the condemnation award shall be a Common Expense. Notwithstanding anything to the contrary contained herein, if the Board determines that reconstruction or restoration is not practical, the entire Condominium shall be subject to an action for partition upon obtaining the written consent of the Owners having seventy-five percent (75%) or more of the Interests. Upon partition, the net proceeds of sale of the Condominium, together with any net proceeds of the award for taking, shall be considered as one fund and divided among all Owners in accordance with their Interests. If the seventy-five percent (75%) approving vote is not obtained within thirty (30) days of the

Board decision, then reconstruction, including any necessary reconstruction of Units, shall take place with costs of restoration of the General Common Elements in excess of condemnation proceeds assessed against all Owners in proportion to their Interests.

## ARTICLE 9. INSURANCE

9.1. Association Insurance. The Association shall obtain and maintain commercial general liability insurance for occurrences on the Common Elements, special form or all-risk casualty insurance coverage on the General Common Elements, and such other policies or coverage as the Board deems necessary or advisable, and as required under the Ground Lease.

9.2. Coverage of Association Insurance. The casualty insurance coverage shall be in an amount equal to the maximum insurable replacement value, with an "agreed amount" and a "replacement cost" endorsement, without deduction or allowance for depreciation. This coverage amount shall be annually reviewed and shall insure against loss or damage by fire and other hazards as commonly covered by a standard extended coverage endorsement and such other hazards as customarily covered with respect to buildings similar in construction, location and use. Commercial general liability coverage shall be in such amounts as the Board determines annually, but not less than One Million Dollars (\$1,000,000.00) per occurrence.

9.3. Proceeds. Subject to the provisions of the Ground Lease, the Association Insurance proceeds for casualty loss shall be for the benefit of the Association, Owners of damaged Units and their Mortgagees as their interests appear in order to finance reconstruction of damaged Common Elements. Liability coverage and other insurance proceeds shall be applied as the Association directs.

9.4. Cost. All premiums for Association Insurance and other insurance obtained by the Association shall be a Common Expense of the Condominium, except that any increase in the rating or premium charged for any such insurance caused by the character or use of a Residential Unit shall be allocated solely to its Owner.

9.5. Waiver of Subrogation. The Association and each Owner acting both for themselves and for their respective insurers, waive any claim it or they may have against the other for any loss insured under any policy obtained by either to the extent of insurance proceeds actually received, however loss is caused, including such losses as may be due to the negligence of the other party, its agents or employees. All policies of insurance shall contain a provision that they are not invalidated by the foregoing waiver, but such waiver shall cease to be effective if the existence thereof precludes the Association from obtaining any policy of insurance at a reasonable and customary rate.

9.6. Acts Affecting Insurance. No Owner or Occupant shall commit or permit any violation of covenants or agreements contained in the Association Insurance, or do or permit anything to be done, or keep or permit anything to be kept, or permit any condition to exist, which might (a) result in termination of any such policies, (b) adversely affect the right of recovery thereunder, (c) result in reputable insurance companies refusing to provide such insurance, or (d) solely in the case of a use of a Residential Unit, result in an increase in the

insurance rate or premium over the premium which would have been charged in the absence of such violation or condition, provided that, in the case of such increase, the Owner responsible for such increase shall pay the same. If the rate of premium payable with respect to the Association Insurance or with respect to any policy of insurance carried by any Owner shall be increased over the rate charged for the lowest-rated Unit, by reason of: (1) the size, design or composition of the Residential Unit, (2) anything done or kept in a Residential Unit, (3) the failure of any Owner or Occupant to comply with Association Insurance requirements, or (4) the failure of any Owner or Occupant to comply with this Declaration or the Bylaws; then the particular Owner shall reimburse the Association for the resulting additional premiums. The Association reimbursement right is without prejudice to any other Association remedy, and may be enforced by special assessment against the particular Unit.

9.7. Exclusions From Coverage. Association Insurance coverage may exclude (a) coverage of the Unit itself and any personal property located within or pertaining to the exclusive use of a Unit; and (b) liability coverage of an Owner, its guests, invitees, employees or any other Occupants of such Unit, arising out of any occurrences within a Unit or relating to an Owner's personal property. It is the sole responsibility of each Owner to obtain such insurance coverages as are excluded from Association Insurance.

#### **ARTICLE 10. AMENDMENT OF DECLARATION**

10.1. General. Except as otherwise provided herein, this Declaration may be amended only by the written consent of Owners who represent at least seventy percent (70%) of the Interests, or such greater percentage as may be required by the Act. An Owner's consent is not effective unless approved by the Unit's Mortgagee, if any. Amendments shall be prepared and executed by the president of the Association and shall become effective when recorded in the Register's Office. The document submitting the amendment for recording shall state that the required consents and approvals for the amendment were received. No action to challenge the validity of an amendment shall be commenced more than one (1) year after the amendment is recorded.

#### 10.2. Special Approvals of Certain Amendments.

(a) No amendment shall adversely affect the rights of Declarant or a Commercial Unit Owner under this Declaration without the prior written consent of Declarant or such Commercial Unit Owner as applicable.

(b) If the revision or adoption of a building code or zoning ordinance prevents or substantially affects the construction of a Unit or Common Elements as platted, the Declarant may reasonably modify the Plat, by addendum in accordance with Section 703.095 of the Act, to the extent necessary to comply with the code or ordinance in order to construct the Units or Common Elements.

(c) If the revision or adoption of a building code or zoning ordinance prevents or substantially affects the reconstruction of a Unit or Common Element as platted, the Declarant, Owner, or Association, as appropriate, may reasonably modify the Plat, by addendum



in accordance with Section 703.095 of the Act, to the extent necessary to comply with the code or ordinance in order to reconstruct the Unit or Common Elements.

10.3. **Material Amendments.** A change to the provisions hereof affecting any of the following shall also require approval of at least fifty-one percent (51%) of Mortgagees: (a) voting rights; (b) assessments, assessment liens, or the priority of assessment liens; (c) reserves for maintenance, repair, and replacement of Common Elements; (d) responsibility for maintenance and repairs; (e) reallocation of interests in the General or Limited Common Elements, or rights to their use; (f) redefinition of any Unit boundaries; (g) convertibility of Units into Common Elements or vice versa; (h) expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the Condominium; (i) insurance or fidelity bond; (j) leasing of Units; (k) imposition of any restrictions on an Owner's right to sell or transfer the Owner's Unit; (l) a decision by the Association to establish self-management when professional management had been previously engaged; (m) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than as specified herein; (n) any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or (o) any provisions that expressly benefit mortgage holders, insurers, or guarantors.

#### **ARTICLE 11. RIGHTS OF MORTGAGE HOLDERS**

11.1. **Notice.** Any Mortgagee of a Unit that makes written request on the Association for the following, identifying the name and address of such person and the Unit number or address, any such holder, insurer, or guarantor will be entitled to timely written notice of:

- (a) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its Mortgage.
- (b) Any thirty (30) day delinquency in the payment of assessments owed by the Owner of the Unit on which it holds a Mortgage or any breach of the provisions of any instrument or rule governing the Condominium which is not cured by such Owner within thirty (30) days of such Owner's receipt of notice of such breach.
- (c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- (d) Any proposed action that requires the consent of Mortgage holders.

11.2. **Mortgagee Acquisition of Unit.** A Mortgagee acquiring title to a Unit pursuant to remedies provided in its Mortgage or by a deed in lieu of foreclosure following an Owner's default under the Mortgage shall not be liable for such Unit's unpaid assessments accruing prior to the Mortgagee's acquisition of title to the Unit (except to the extent that any uncollected assessments may be included in any subsequent budget or revision to a budget).

11.3. **Restoration.** Any restoration or repair of the Condominium after a partial condemnation or damage due to an insured hazard shall be performed substantially in accordance

with this Declaration, the Ground Lease, and the original plans and specifications, unless other action is approved by at least fifty-one percent (51%) of Mortgagees.

11.4. **Termination.** Any election to terminate the Condominium must require Mortgagee approval as follows: (1) at least fifty-one percent (51%) in the case of such an election after substantial destruction or a substantial taking in condemnation of the Property and (2) at least sixty-seven percent (67%) in all other cases.

## **ARTICLE 12. RIGHTS OF DECLARANT**

12.1. **Reserved Rights.** Notwithstanding anything in this Declaration to the contrary, until the sale by Declarant of all Units in the Condominium, Declarant may:

- (a) Manage and operate the Condominium in accordance with this Declaration, including the right to contract for professional management of the Condominium, subject to Sections 4.4 and 4.5.
- (b) Use the General Common Elements and any unsold Units in any manner as may facilitate the sale or leasing of all Units including in connection therewith maintaining a sales and/or rental office or offices and models and showing the Condominium (or other real estate projects sponsored by Declarant or its affiliates within one-half mile of the Condominium) or maintaining signs.
- (c) Grant easements upon, over, through and across the General Common Elements as may be required for furnishing any kind of utility services, including cable television or master antenna service, which easements may be granted to itself or its nominee and/or as may be necessary for excavation and construction of any of the Units.
- (d) Grant easements upon, over, through or across the General Common Elements for permanent or temporary ingress and egress to and from the Condominium and other real property adjacent to it.
- (e) Lease Units owned by Declarant on such terms as Declarant desires.
- (f) Make alterations and changes to the design or exterior materials of any Unit or part thereof during construction.
- (g) Take action affecting the Common Elements in order to comply with the Plan, but the Declarant is not obligated to take any such action other than in its capacity as a Unit Owner.

## **ARTICLE 13. REMEDIES FOR VIOLATION BY OWNER**

13.1. **General Remedies.** If any Owner or Occupant fails to comply with the Act, this Declaration, the Bylaws, or the Rules, such Owner shall be liable for damages or any other

remedy provided by the Bylaws or subject to injunctive relief, or all of the above, as a result of such noncompliance. The Association, or in a proper case, an aggrieved Owner, may bring an action because of such noncompliance.

13.2. Owner Violation; Association Right to Cure. In addition to any other remedies provided herein, if any Owner or Occupant fails to properly maintain its Unit or any part or portion thereof or the Limited Common Elements appurtenant thereto, or otherwise comply with this Declaration, the Bylaws, the Ground Lease, the Cross-Parking and Access Easement Declaration, or the Rules, which failure continues for a period of fifteen (15) days following written notice from the Association, the Association shall have the right, but not the obligation, to perform or cause to be performed such maintenance, replacement, restoration or other action as the Association deems necessary or appropriate. Expenses incurred by the Association shall be assessed against the Unit's Owner and shall be subject to all rights and remedies reserved under this Declaration with respect to collection, expense, late payment penalties or interest, filing of a lien and/or foreclosure. Once the Association has taken such an action, it shall not be obligated to take any other or further action with respect to the same, similar or subsequent failure by the same or a different Owner or Occupant.

13.3. Eviction Actions Against Tenants. A Residential Owner, as a condition of a rental or lease of the Owner's Unit, is deemed hereby to grant the Association power of attorney to bring an eviction action against a tenant of the Owner for failure to comply with the Condominium Documents or for any act or omission that constitutes grounds for eviction under Wisconsin Statutes Chapter 704 if the Owner, after being requested by the Association to evict the tenant, fails to take reasonable action to evict the tenant. The Owner shall be deemed to have taken reasonable action to evict the tenant if the Owner gives notice, terminates, or does not renew a tenant's lease or rental agreement within sixty (60) days after an eviction request. All eviction-related costs incurred by the Association in connection with this Section shall be the sole responsibility of the Owner. Any eviction action brought by the Association under this Section is subject to Wisconsin Statutes Chapters 704 and 799. This Section applies only to leases or rental agreements that are entered into or renewed after three (3) years after the date of recordation of this Declaration.

#### **ARTICLE 14. SERVICE OF PROCESS**

14.1. Agent. Service of process shall be made on Jennifer Zizzo, South Pier District 1, LLC, 1830 North Hubbard Street, Milwaukee, Wisconsin 53212. Any change in the person or location for the service of process designated by the Association may be accomplished by resolution adopted by a majority of the Board and by the filing of such change with the Department of Financial Institutions of the State of Wisconsin or such other office as shall then be designated for the filing of a change of registered agent for nonprofit corporations and shall become effective upon the recording of notice thereof in the Register's Office.

## **ARTICLE 15. EASEMENTS**

15.1. Right of Entry. A right of entry to each Unit is reserved to the Association and its agents to service utility installations provided request for entry is made in advance and at a convenient time for the Owner. In case of emergency, entry of a Unit may be made immediately, whether the Owner or Occupant of the Unit is or is not present and without liability to the Association or its agents. Any damage or loss caused as a result of such emergency entry shall be at the sole expense of the Owner if, in the reasonable judgment of those authorizing the entry, such entry was for emergency purposes.

15.2. Encroachments. If any portion of the Common Elements encroaches upon a Unit or any Unit encroaches upon the Common Elements or upon any other Unit or if any utility lines encroach upon either the Common Elements or a Unit, a valid easement for the encroachment and maintenance of such encroachment shall exist for the duration of the encroachment. Minor encroachments of parts of the Common Elements and utility lines due to reconstruction of part or all of a Unit shall be permitted and an easement for such encroachments and the maintenance thereof is prospectively reserved.

15.3. Utility and Other Easements. Easements over, under or through the Units, Common Elements and Property are reserved in favor of Declarant, the Association, appropriate utility and service companies and governmental agencies or authorities for installation, maintenance, repair, operation and replacement of Service Elements as may be necessary or desirable to serve any portion of the Property. Initial installation of Service Elements shall require only Declarant approval. If, following the Turn Over Date, the alternative location of any Service Elements is considered, the location must be approved by the Board. The easements reserved and provided for by this Section shall include, without limitation, rights of Declarant, the Association, any providing utility, service company, and/or governmental agency or authority, and any of them, to install, lay, maintain, relocate and replace Service Elements and any other appropriate equipment and facilities over, under, through, along and on the Units and Common Elements, provided that any such installation, repair, maintenance, use, removal and/or replacement of any such Service Elements shall be performed so as to not unreasonably interfere with any Unit operations and performed in a good and workmanlike manner. All such installation, repair, maintenance, use, removal and/or replacement shall be conducted by and in the manner provided in the Bylaws.

15.4. Further Easements. The Association may grant easements over, under, or through the General Common Elements for such purposes as the Board deems reasonable for the benefit of the Owners without the consent of the Owners.

15.5. Declarant Easements. Declarant reserves an easement for itself and its duly authorized agents, representatives, and employees, over portions of the Common Elements and Units owned by Declarant for construction or renovation on the Property or related purposes including: storing tools, machinery, equipment, building materials, appliances, supplies and fixtures; maintaining and correcting drainage of surface, roof or storm water; cutting any trees, bushes, or shrubbery or installing landscaping; grading the soil or taking any other action

reasonably necessary. Each Owner hereby acknowledges that the activities of the Declarant may temporarily impair the view of or cause other inconveniences to Owners.

15.6. Easements to the City. The Declarant reserves the right to grant easements over, under, or through the Common Elements to the City and to utility providers for such purposes as Declarant deems necessary in connection with the development of the Condominium and certain other properties adjacent to the Property which may be developed by Declarant or an affiliate of Declarant.

15.7. Easement to Unit Owners. Each Unit Owner shall have a valid, non-exclusive easement to the Common Element space between the interior and exterior of the walls of the Unit, where the walls are not masonry construction, for purposes of adding additional utility outlets, wall hangings, erection of non-bearing partition walls, and the like, where space between the walls may be necessary for such uses, provided that the Unit Owner shall do nothing to impair the structural integrity of the Building or the sound proofing of common walls between the Units, and provided further that the Common Elements and facilities must be restored to their former condition by the Unit Owner at the Unit Owner's sole expense upon completion or termination of such use.

15.8. Cross-Parking and Access Easement Declaration.

(a) Maintenance and Repair. The Association is responsible for the performance of all repair, maintenance and upkeep obligations of the Grantor under the Cross-Parking and Access Easement Declaration.

(b) Default Under the Cross-Parking and Access Easement Declaration. No Owner or such owner's family, guests, invitees or tenant or any other Occupants of such Owner's Unit may commit any act that constitutes a default under the Cross-Parking and Access Easement Declaration. If a Unit Owner commits any act that constitutes a default under the Cross-Parking and Access Easement Declaration, the Association shall have the right, but not the obligation, to discharge such obligations on behalf of the Unit Owner and if the costs so incurred by the Association are not promptly repaid to the Association, then the Board may levy a special assessment against the Unit for such expense.

15.9. Access Easement to Entry Way. An easement is reserved in the entry way which connects Unit 100 to the elevator lobby for the Residential Units, shown on the Plat as being a Limited Common Element appurtenant to Unit 100, for the Owners and guests of the Residential Units. Despite being a Limited Common Element, and notwithstanding anything to the contrary in this Declaration, this area will be maintained by the Association as if it were a General Common Element. If the Commercial Unit is separated, the use of this area may be assigned by the Owner of the Commercial Unit to fewer than all of the resulting Commercial Units but in all cases subject to this easement.

## ARTICLE 16. GROUND LEASE

16.1. Rent. The Association is responsible for the payment of all rent and any other charges due and owing by the Tenant (as defined in the Ground Lease) under the Ground Lease. Payment of rent and any other charges due and owing by the Tenant under the Ground Lease shall constitute a Common Expense for the Association.

16.2. Obligations of Tenant Under the Ground Lease. The Association is responsible for the performance of all maintenance and repair obligations of the Tenant under the Ground Lease.

16.3. Administration of the Ground Lease. The Association is the sole person with authority to act as Tenant under the Ground Lease.

16.4. Default Under the Ground Lease. No Owner or such owner's family, guests, invitees or tenant or any other Occupants of such Owner's Unit may commit any act that constitutes a default under the Ground Lease. If a Unit Owner commits any act that constitutes a default under the Ground Lease, the Association shall have the right, but not the obligation, to discharge such obligations on behalf of the Unit Owner and if the costs so incurred by the Association are not promptly repaid to the Association, then the Board may levy a special assessment against the Unit for such expense.

16.5. Material Handling & Engineered Barrier Plan. No Owner or such owner's family, guests, invitees or tenant or any other Occupants of such Owner's Unit may commit any act that constitutes a default under the Plan. If a Unit Owner commits any act that constitutes a default under the Plan, the Association shall have the right, but not the obligation, to discharge such obligations on behalf of the Unit Owner and if the costs so incurred by the Association are not promptly repaid to the Association, then the Board may levy a special assessment against the Unit for such expense.

## ARTICLE 17. CONSTRUCTION AND EFFECT

17.1. Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders. The term "person" shall include all legal entities.

17.2. Including. Whenever used herein, the term "including" preceding a list of one or more items shall indicate that the list contains examples of a general principle and is not intended as an exhaustive listing.

17.3. Captions. The captions and article and section headings in this Declaration are intended for convenience and reference only and in no way define or limit the scope or intent of the various provisions hereof.

17.4. Severability. If any portion of this Declaration or its application to any person or circumstance is held to be invalid or unenforceable, the remainder of this Declaration, or the application of such provision, or any part thereof, to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby. The remainder of this Declaration shall be valid, and enforced, to the fullest extent permitted by law.

17.5. Remedies. All remedies herein are cumulative.

17.6. Waivers. Whenever a waiver, consent or approval is required or permitted herein, it must be express and in writing; no waiver, consent or approval shall be implied. A waiver, consent or approval to any one matter shall not be deemed a waiver, consent or approval to any subsequent matter whether similar or not.

17.7. Assignment of Declarant's Rights. Subject to any prohibitions within the Act, all of the rights and benefits conferred on or reserved herein for Declarant in its status as such (as opposed to those rights or benefits conferred on or reserved for all Owners or groups thereof) may be assigned by Declarant as follows: (a) to any person by an instrument in writing specifically identifying the rights and benefits so assigned which is recorded in the Register's Office, or (b) to any purchaser of the Declarant's rights in a foreclosure sale or deed in lieu of foreclosure, without any specific written assignment of Declarant's rights, or (c) to any person or entity to which Declarant's rights have been collaterally assigned upon the exercise of such person's or entity's rights under such collateral assignment, without any specific written assignment of Declarant's rights. An assignment of Declarant's rights is effective from the date of recordation of the assignment under (a), the deed under (b), or notice by such collateral assignee of such exercise under (c). A mortgage or other security interest granted in Declarant's rights does not confer on the mortgagee or holder of the security interest the right to act as Declarant without some further act under (a) or (b) or (c). From and after each assignment, only the assignee may act as Declarant under this Declaration with respect to the rights assigned and all prior persons holding Declarant's rights shall no longer be entitled to exercise such rights. No successor Declarant shall be responsible or liable for the obligations of a Declarant arising before the date on which successor Declarant may act as above.

17.8. Assignment of Commercial Unit Owner's Rights. Subject to any prohibitions within the Act, all of the rights and benefits conferred on or reserved herein for the Owner of the Commercial Unit in its status as such (as opposed to those rights or benefits conferred on or reserved for all Owners or groups thereof) may be assigned by the Owner of the Commercial Unit as follows: (a) to any person by an instrument in writing specifically identifying the rights and benefits so assigned which is recorded in the Register's Office, or (b) to any purchaser of such rights in a foreclosure sale or deed in lieu of foreclosure, without any specific written assignment of such rights, or (c) to any person or entity to which such rights have been collaterally assigned upon the exercise of such person's or entity's rights under such collateral assignment, without any specific written assignment of such rights. An assignment of such rights is effective from the date of recordation of the assignment under (a), the deed under (b), or notice by such collateral assignee of such exercise under (c). A mortgage or other security interest granted in such rights does not confer on the mortgagee or holder of the security interest the right to exercise the right of the Owner of the Commercial Unit without some further act under (a) or (b) or (c). From and after each assignment, only the assignee may act as such

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Owner under this Declaration with respect to the rights assigned and all prior persons holding such rights shall no longer be entitled to exercise such rights. No successor to the Owner of the Commercial Unit shall be responsible or liable for the obligations of a previous Owner arising before the date on which successor Owner may act as above.

(SIGNATURE AND DATE APPEARS ON FOLLOWING PAGE.)





**Consent of Mortgagee to Declaration of Condominium**

The undersigned is the holder of a mortgage encumbering the Property submitted to this Declaration of Condominium and hereby executes the Declaration in order to comply with Section 703.09(1)(c), Wis. Stats. By signing this Consent, the undersigned does not accept any responsibility as the Declarant and has no obligations to any Owner under the Declaration.

**JOHNSON BANK**

By: [Signature]  
Name: Douglas Menne  
Title: Vice President

STATE OF WISCONSIN )  
                                  ) SS.  
Milwaukee COUNTY )

Personally came before me this 3 day of August, 2007, the above named Doug Menne, who acknowledged herself/himself to be the Vice President of Johnson Bank, and to me known to be the person who executed the foregoing instrument as such officer of such corporation, by its authority, and acknowledged the same.



[Signature]  
Notary Public, State of Wisconsin  
My Commission: 6/20/2008



**Exhibit A****Legal Description of Property**

THAT PART OF LOT 2 SOUTH PIER PLAT LOCATED IN THE NW 1/4 SEC. 26, T15N, R23E, CITY OF SHEBOYGAN, COUNTY OF SHEBOYGAN, STATE OF WISCONSIN, DESCRIBED AS FOLLOWS:

(GROUND LEASE PARCEL 1)

BEGINNING AT THE SW CORNER SAID LOT 2,  
 THENCE S89°43'49"E, 48.31 FEET;  
 THENCE N89°43'28"E, 168.84 FEET;  
 THENCE N18°39'56"W, 96.83 FEET;  
 THENCE S71°20'04"W, 185.21 FEET;  
 THENCE S00°06'39"W, 90.88 FEET TO THE POINT OF BEGINNING,  
 CONTAINING 19,786 S.F. OF LAND

AND

(VACATED PORTION OF EAST WATER STREET AND SOUTH PIER DRIVE BY RES. NO. 221-06-07)

COMMENCING AT THE SW CORNER OF SAID LOT 2:

THENCE S89°43'49"E ALONG THE SOUTH LINE OF SAID LOT 2, 31.49 FEET TO THE POINT OF BEGINNING;

THENCE FROM SAID POINT OF BEGINNING CONTINUING S89°43'48"E ALONG THE SOUTH LINE OF SAID LOT 2, 16.82 FEET;

THENCE N89°43'28"E ALONG THE SOUTH LINE OF SAID LOT 2, 168.84 FEET TO THE EASTERLY LINE OF SAID PARCEL 1;

THENCE S18°39'56"W ALONG THE EAST LINE OF SAID PARCEL 1 PROLONGATED 29.06 FEET;

THENCE S67°11'33"W, 8.14 FEET;

THENCE S70°15'37"W, 157.82 FEET;

THENCE 28.99 FEET ALONG THE ARC OF A CURVE TO THE RIGHT SAID CURVE HAVING A RADIUS OF 47.87 FEET AND A CHORD THAT BEARS S87°38'36"W, 28.55 FEET;  
 THENCE N00°16'08"E, 28.61 TO THE POINT OF BEGINNING;  
 CONTAINING 5,424 S.F. OF LAND.

WHD(12992)0.6

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**Exhibit B**  
**Condominium Plat**

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