

Prepared by and Mail to:

Paul M. Mitchell  
530 W. Van Buren Avenue  
Naperville, Illinois 60540

**MASTER DECLARATION OF EASEMENTS, COVENANTS AND  
RESTRICTIONS FOR CENTRAL PARK PLACE**

DECLARATION OF EASEMENTS, COVENANTS, AND  
RESTRICTIONS FOR CENTRAL PARK PLACE

THIS DECLARATION, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by Great Central Properties III, LLC, an Illinois limited liability company (Declarant);

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of certain real estate in the City of Naperville, County of DuPage, and State of Illinois, described in Exhibit A, which is attached hereto and made a part hereof (“Parcel”); and

WHEREAS, the Declarant is constructing on the Parcel a new building to be attached to the existing building containing retail units on the street level and residential units on the second, third and fourth floors, together with various facilities designed for common use such as routes for egress and ingress, electrical room and loading/trash areas; and

WHEREAS, with respect to the commercial portions of the Parcel, Declarant intends to record a vertical subdivision, entitled Central Park Place Commercial Subdivision (hereinafter referred to as the “Commercial Property”); and

WHEREAS, with respect to the residential portions of the Parcel, Declarant intends to record a Declaration of Condominium For Central Park Place Residential Condominium (hereinafter referred to as the “Residential Property”); and

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

NOW, THEREFORE, the Declarant declares that the Parcel shall hereafter be held, transferred, conveyed, sold, occupied, mortgaged, and encumbered subject to the rights, easements, terms, covenants, restrictions, and liens hereinafter set forth, each and all of which shall attach to and constitute covenants running with the land.

**1. *Definitions.*** As used herein, unless otherwise provided, the following words and terms shall have the following meanings:

- a. Architect – The architectural firm appointed or serving from time to time pursuant to Paragraph 9 of this Declaration.
- b. Building – All improvements situated within the Parcel, including the existing building and the new building that is presently being constructed.
- c. Commercial Building – That portion of the Building that is a part of the Commercial Property.
- e. Occupant — A Person or Persons, other than the Declarant, in possession of a portion of the Commercial Property or Residential Property.
- f. Owner(s) — The Owner of the Commercial Property or the Owner of the Residential Property or both such parties as the content may require.
- g. Owner of the Commercial Property – The person or persons or entity or entities whose interests, individually or collectively, aggregate, from time to time, fee simple ownership of the Commercial Property.
- h. Owner of the Residential Property – The person or persons or entity or entities whose interests, individually or collectively, aggregate, from time to time, fee simple ownership of the Residential Property, being the Unit Owners collectively of the Residential Property.
- i. Person — A natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.
- j. Residential Association – The Central Park Place Residential Condominium Association, and Illinois Not-For-Profit Corporation, formed for the purpose of administering the Residential Property pursuant to the Illinois Condominium Property Act (“Act”).
- k. Residential Building – That portion of the Building that is part of the Residential Property.
- l. Residential Condominium Declaration – The Declaration of Condominium For Central Park Residential Condominium.
- n. Unit — A part of the Residential Property and/or the Commercial Property including a unit is the Residential Condominium Declaration and/or a space in the Commercial Property used for retail purposes, as the case may be.
- o. Unit Owner – The person or persons or entity or entities whose estates or interests, individually or collectively, aggregate from time to time fee simple absolute ownership of a Unit.

***2. Property Subject to This Declaration; Reserved Rights.***

a. The Parcel is subject to, and shall or may hereafter be held, transferred, conveyed, sold, occupied, mortgaged, or encumbered subject only to, the rights, easements, terms, covenants, restrictions, and liens set forth or provided for in this instrument.

b. The Declarant reserves the right to use any portion or portions of the Parcel not conveyed by the Declarant to a bona fide purchaser as it deems necessary in connection with the sale or rental of Units being or to be constructed on the Parcel, including but not limited to parking for sales personnel and prospective customers or tenants.

**3. *Easements in Favor of Commercial Property:*** The following perpetual easements in, to, over, upon and through portions of the Residential Property in favor of the Commercial Property are hereby declared and granted:

a. A non-exclusive easement and right of access is granted to the Owners of the Commercial Property to use, in conjunction with the use by the Residential Association or the Owners of the Residential Property, the following located in the Residential Property: (i) in the basement level the sprinkler service that goes up to the street level for the Commercial Property; (ii) in the street level the elevator to be used for access to the restaurant commercial unit located in the existing building; (iii) in the south area of the ground level the sprinkler, condensers and loading/trash areas; (iv) in the ground level the north car elevator; (v) in the roof level the mechanical and plumbing vents as well as access for the vents from the street level to the roof level, and for elevator access to service/repair the venting system; and (vi) any other utility or other system used by or for the benefit of the Commercial Property.

b. A non-exclusive easement in and to all structural members, footings, caissons, foundations, columns and beams, and other supporting components, located within or constituting a part of the Residential Property for the support of: (i) The Commercial Building, and (ii) Any facilities located in the Residential Property with respect to which the Owner of the Commercial Property is granted an easement under this Declaration.

c. An exclusive easement for the maintenance of encroachments in the event and to the extent that, by reason of the original construction of the Building or any reconstruction thereof or the subsequent settlement or shifting of any part of the Building, any part of the Commercial Building encroaches or shall hereafter encroach upon any part of the Residential Property. Such easements for the maintenance of encroachments shall exist only as long as the encroaching portion of the Building shall remain standing; provided, however, that in no event shall an easement for any encroachment be created in favor of the Commercial Property if such encroachment unreasonably interferes with the reasonable use and enjoyment of the Residential Property by the Owner of the Residential Property.

**4. *Easements in Favor of Residential Property:*** The following perpetual easements in, to, over, upon and through portions of the Commercial Property in favor of the Residential Property are hereby declared and granted:

a. A non-exclusive easement and right of access is granted to the Residential Association and the Owners of the Residential Property to use, in conjunction with the use by the Owners of the Commercial Property, the following located in the Commercial Property: (i) in the ground level the gas meters and appurtenant equipment, electric meters and appurtenant equipment, emergency generator and loading/trash area located on the north side of the Commercial Building; (ii) in the ground level the main common access way located in the Commercial common area west of the Commercial Building for access to the elevator and stairs; (iii) in the ground level access to the building for vehicles and pedestrians located in the Commercial common area east of the Commercial Building; and (iv) any other utility or other system used by or for the benefit of the Residential Property.

b. A non-exclusive easement in and to all structural members, footings, caissons, foundations, columns and beams, and other supporting components, located within or constituting a part of the Commercial Property for the support of: (i) The Residential Building, and (ii) Any facilities located in the Commercial Property with respect to which the Residential Association and the Owners of the Residential Property is granted an easement under this Declaration.

c. An exclusive easement for the maintenance of encroachments in the event and to the extent that, by reason of the original construction of the Building or any reconstruction thereof or the subsequent settlement or shifting of any part of the Building, any part of the Residential Building encroaches or shall hereafter encroach upon any part of the Commercial Property or Commercial Building. Such easements for the maintenance of encroachments shall exist only as long as the encroaching portion of the Building shall remain standing; provided, however, that in no event shall an easement for any encroachment be created in favor of the Residential Property if such encroachment unreasonably interferes with the reasonable use and enjoyment of the Commercial Property by the Owner of the Commercial Property.

##### ***5. Structural Support.***

a. If, for any reason, the structural support for any portion of the Building is reduced below the support required for the structural safety or integrity of the balance of the Building, the Owner responsible for such reduction (being the Owner of the Residential Property or the Owner of the Commercial Property) shall promptly provide substitute adequate structural support at its sole expense. The Architect shall determine, at the request of either Owner, the extent of the reduction and the adequacy of the substitute support which shall be constructed in accordance with plans and specifications prepared by the Architect. The fees of the Architect shall be borne by the Owner responsible for such reduction.

b. In the event that the Architect determines that substitute or additional structural support is required in a portion of the Building in which the structural support has been reduced and the responsible Owner fails to commence the construction of such substitute support within a reasonable time, as determined by the Architect, or having commenced such construction fails to proceed diligently to cause the completion of such construction (the "Defaulting Owner"), the Owner of the other portion

of the Building (the "Creditor Owner") shall have the right to complete the construction of the substitute or additional support at the expense of the Defaulting Owner and to enter upon the portion of the Building owned by the Defaulting Owner for such purpose, and all costs and expenses incurred by the Creditor Owner in effecting such repair or substitution shall be due from Defaulting Owner on demand.

c. No Owner shall make any alterations or changes to the Building which would adversely affect the structural integrity of the Building.

d. Any such structural improvements shall be subject to the review and approval of the City as required by the City's ordinances and regulations.

#### ***6. Commercial and Residential Property Insurance.***

a. The Owner of the Commercial Property and the Residential Association shall each keep its property insured for no less than "all risk" or "special form" coverage on real property and broad form named perils on the personal property for an amount not less than one hundred percent (100%) of the full insurable replacement cost value thereof, less deductibles, but including coverage for the increased cost of construction due to building code requirements at the time the insurance is purchased and at each renewal date.. The Building shall be appraised from time to time by an independent appraiser, at intervals agreed to by the Owner of the Commercial Property and the Residential Association, and such policies shall be endorsed with an agreed amount clause in accordance with such appraisals. So long as the Residential Property remains subject to the provisions of the Act, insurance on additions, alterations, improvements and betterments to individual Units shall be the responsibility of those persons designated in the Residential Declaration as being responsible for such insurance.

b. The Owner of the Commercial Property and the Residential Association shall each maintain comprehensive General Liability Insurance with Broad Form Extensions covering claims for personal injury or property damage occurring in or upon their respective properties, or as a result of operations thereon, for limits of not less than \$1,000,000 combined single limit for bodily injury or property damage with an additional \$5,000,000 umbrella coverage.

c. The Owner of the Commercial Property and the Residential Association shall insure their respective plate or other type of glass risk.

d. Insurance Companies. The insurance policies required by Paragraph 6a above shall be issued by the same insurance company. Such policies may be issued in combination covering one or several items and covering jointly the interests of each Owner, in which case the insurance company shall apportion the premium on an equitable basis. Such policies may also be issued separately with respect to each Owner's interest in the Property, but such policies must be issued by the same insurance company. In the event the Residential Association and the Owner of the Commercial Property cannot agree upon the insurance companies or agencies to provide the insurance required under above, the question of

selection of an insurance company or agency shall be submitted to arbitration as provided in Paragraph 8 hereof. Insurance policies required above shall be purchased from insurance companies authorized and licensed to transact business in the State of Illinois.

e. Each policy described above: (i) Shall provide that the acts of any insured party shall not invalidate the policy as against any other insured party or otherwise adversely affect the rights of any other insured party under any such policy; (ii) Shall name as insured parties the Owner of the Commercial Property and the Residential Association and, at the request of each respective Owner, any mortgagees of all or any portion of the Commercial Property or the mortgagees of all or any portion of the Residential Property, as their interests may appear, and each policy shall also name as an insured party the managing agents for the Owner of the Commercial Property and the Residential Association; (iii) Shall be endorsed with a clause which reads substantially as follows: "This insurance shall not be "invalidated should any of the insureds hereunder waive in writing prior to a loss any or all rights of recovery against any party for loss occurring to the property described herein;" and, (iv) Shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damaged area in lieu of making a cash settlement therefor, such option shall not be exercisable in the event this Declaration requires that the property insured thereunder is not restored; and, (v) Shall provide for a minimum of sixty (60) days' advance written notice of cancellation to all insureds thereunder, unless such cancellation is for non-payment of premium, in which case ten (10) days' advance written notice shall be sufficient.

f. Copies of all renewal insurance policies or other bona fide evidence of insurance required hereunder shall be delivered by each Owner to the other Owner and to any mortgagee named as additional insured in any expiring policies at least thirty (30) days prior to the expiration date of any such expiring insurance policy.

g. Should an Owner (the "Defaulting Owner") fail to provide and maintain the policies of insurance in this Paragraph 6 as above provided, then the other Owner (the "Creditor Owner") may purchase such policy(ies) and the costs thereof shall be due from the Defaulting Owner upon written demand and the payment of any such costs shall be secured by a lien against the portion of the property owned by the Defaulting Owner in accordance with this Paragraph 6, and against any insurance proceeds payable under such policies without any further act or deed by the Creditor Owner.

#### ***7. Damage or Destruction and Restoration of Structures and Facilities Located on the Commercial Property or the Residential Property.***

a. The Owner of the Commercial Property shall, at its sole cost and expense, keep the Commercial Property in good and safe order and condition, and make all repairs therein and thereof, interior and exterior, structural and non-structural, and ordinary and extraordinary, necessary to keep the same in good and safe first class order and condition, whether or not necessitated by wear, tear, obsolescence, or defects, latent or otherwise, and further agrees that it shall not suffer or commit, and shall use all reasonable precaution to prevent waste to such property.

b. The Residential Association shall, at its sole cost and expense, keep the Residential Property in good and safe order and condition, and make all repairs therein and thereof, interior and exterior, structural and non-structural, and ordinary and extraordinary, necessary to keep the same in good and safe first class order and condition, whether or not necessitated by wear, tear, obsolescence, or defects, latent or otherwise, and further agrees that it shall not suffer or commit, and shall use all reasonable precaution to prevent waste to such property.

c. If the Building is damaged by fire or other casualty and if such damage occurs in, on or about the Commercial Property only and does not affect any Easement Parcels, or in, on or about the Residential Property only and does not affect any Easement Parcels, then any such damage shall be repaired and restored by the Owner of the portion of the Building in which any such damage occurs

d. If the Building is damaged by fire or other casualty and if the provisions of Paragraph 7c are not applicable, then the repair and restoration of such damages shall be the joint responsibility of both the Owner of the Commercial Property and the Residential Association, shall be commenced and pursued to completion in as timely a manner as practicable, and shall be performed by a contractor or contractors on behalf of both the Owner of the Commercial Property and the Residential Association. The plans and specifications for such repair and restoration shall be prepared by the Architect, unless the Owner of the Commercial Property and the Residential Association otherwise agree. Such plans and specifications shall provide for the Building to be rebuilt, as nearly as commercially practicable, to the Building as constructed prior to damage, unless prohibited by law or unless the Owner of the Commercial Property and the Residential Association otherwise agree. After preparing any such plans and specifications, the Architect shall furnish to the Owner of the Commercial Property and the Residential Association a set of such plans and specifications. Unless the Owner of the Commercial Property and the Residential Association otherwise agree, any contractor or contractors shall work under the supervision of the Architect.

e. If the cost and expense of performing any repair and restoration provided in Paragraph 7d hereof shall exceed the amount of available insurance proceeds, if any, paid by reason of the damage being repaired and restored, then such excess cost and expense (or the entire amount of such cost and expense if there are no insurance proceeds) shall be borne by the Owner of the Commercial Property and the Residential Association in proportion to the cost and expense of repairing and restoring to their former condition their respective portions of the Building. In the event the parties cannot agree as to such apportionment, the Architect shall determine such apportionment.

f. Upon completion of the repair and restoration of any damage to the Building, any insurance proceeds paid by reason of such damage in excess of the cost and expense of performing such repairs and restoration shall be refunded to the Owners in the same proportion in which the Owners shared the cost of the most recently purchased insurance policy or policies which paid such excess proceeds.



**8. Arbitration.** All questions, differences, disputes or controversies arising hereunder, except those to be settled by the Architect or where otherwise provided herein, shall be settled by arbitration in accordance with the then existing rules of the American Arbitration Association. Such arbitration shall be conducted at the request of either Owner before three arbitrators (unless the Owners agree to use one arbitrator) designated as follows: the Owner requesting the arbitration shall designate, in writing within fifteen (15) days after the date of such request, the name of an arbitrator who is a member of the American Arbitration Association and knowledgeable in the issues being arbitrated, and the other Owner shall make similar designation within said fifteen (15) day period.

Within twenty (20) days after the selection of the last two arbitrators designated as aforesaid, the two arbitrators shall select and designate a third arbitrator. In the event the two arbitrators chosen are unable to agree upon a third arbitrator, then the third arbitrator shall be designated by the American Arbitration Association within ten (10) days after the expiration of said twenty (20) day period. The arbitrators designated and acting hereunder shall make their award in strict conformity with the Association's rules and shall have no power to depart from or change any of the provisions thereof. Any such award shall be binding upon the Owner of the Commercial Property and the Residential Association and shall be enforceable by any court exercising jurisdiction over the Owner of the Commercial Property and the Owner of the Residential Property. Each Owner shall bear one-half of the expenses of arbitration proceedings conducted hereunder (other than witness fees and attorney fees). Notwithstanding the above, should the arbitrators determine that the claim of the Owner requesting the arbitration is spurious, said Owner shall pay the entire cost of the arbitration proceedings. All arbitration proceeds hereunder shall be conducted in DuPage County, Illinois, unless otherwise agreed by the Owners.

**9. Architect.**

a. The Architect appointed to serve under and pursuant to the terms and provisions hereof shall be a firm consisting of architect(s) experienced in the design and operation of structures similar to the Building. The firm which prepared the plans and specifications for the construction of the Building and upon which building permits were issued is hereby appointed as the Architect to serve hereunder. The Owner of the Commercial Property and the Residential Association may at any time dismiss any Architect and appoint another architectural firm experienced in design of structures similar to the Building as Architect by giving written notice of such removal and appointment. If the Owner of the Commercial Property and the Residential Association cannot agree as to the appointment of an Architect, then the dispute shall be settled by arbitration pursuant to Paragraph 8 hereof.

b. The Architect shall receive a reasonable fee for any service rendered hereunder, together with reasonable and necessary expense incurred in connection therewith, and the Owner of the Commercial Property and the Residential Association shall each pay its equitable share of said fees. In any instance when the Architect shall, in accordance with any of the provisions hereof, render services in connection with the preparation of plans and specifications or the supervision of repair, restoration or demolition, the

fees and expenses of the Architect shall be considered as costs and expenses of repair, restoration or demolition, as the case may be, and shall be paid in the same manner as other costs and expenses of repair, restoration and demolition under the provisions hereof pursuant to which the Architect is performing such services. If any Owner shall fail to pay its allocable share of any fees or expenses of the Architect, then the other Owner may pay the same and the Owner failing to pay shall, upon written demand, reimburse the other Owner of such payment.

**10. *Effect of Submission to Act.*** Upon submission of the Residential Property to the provisions of the Act, all right and obligations, easements, burdens and benefits under this Declaration shall be appurtenant to the Residential Condominium Property and shall be exercised or performed by the Unit Owners or Board of Managers of the Residential Association in accordance with the Residential Condominium Declaration and this Declaration; provided that so long as the Residential Property is submitted to the Act, any action to enforce any provisions of this Declaration on behalf of the Unit Owners or any notice, permitted or required to be given by the Unit Owners, shall be taken or given solely by the Residential Association on behalf of all Unit Owners., and further provided that any obligation hereunder shall be deemed to be the obligation jointly and severally of both the Residential Association and Unit Owners. Each Unit Owner in the Residential Association shall make a good faith effort to cause the Residential Association to perform any and all obligations the Owner of the Residential Property hereunder.

**11. *Enforcement.*** Enforcement of the covenants and restrictions contained in this Declaration shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate them or to recover damages or to enforce any lien created by this instrument, and failure by the Residential Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event of any action or proceeding to enforce the covenants or restrictions contained in this Declaration, including by arbitration, the prevailing party shall be entitled to recover all costs and expenses including its reasonable attorney fees.

**12. *Failure To Enforce.*** No terms, obligations, covenants, conditions, restrictions, or provisions imposed hereby or contained herein shall be abrogated or waived by any failure to enforce the same, no matter how many violations or breaches may occur.

**13. *Duration.*** The covenants, conditions, and restrictions of this Declaration shall run with and bind the land subject to this Declaration and shall inure to the benefit of and be enforceable by the Residential Association and/or the Owner of any land subject to this Declaration and their respective legal representatives, heirs, successors, and assigns.

**14. *Amendments.***

a. No change, modification, or amendment that affects the rights, privileges, or obligations of the Declarant shall be effective without the prior written consent of the Declarant. Except as otherwise provided, other provisions of this Declaration may be amended, changed, or modified by an instrument in

writing setting forth the amendment, change, or modification signed and acknowledged by both at least 75 percent of the Owner(s) of the Commercial Property and at least 75 percent of the Owners of Units in the Residential Property. Any such amendment, change, or modification shall be effective on the recordation thereof. No amendment shall reduce or eliminate rights granted under Paragraphs 3, 4 and 5 hereof.

b. Notwithstanding the foregoing, scrivener's errors may be corrected by the Declarant unless an amendment would materially or adversely affect property rights of Owners.

**15. Severability.** The invalidity of any restriction hereby imposed, or of any provision hereof, or of any part of a restriction or provision, shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration, and all of the terms hereof are hereby declared to be severable.

**16. Construction.** The provisions of this Declaration shall be liberally construed to effect its purpose of creating a uniform plan for the development and operation of the Property.

**17. Trustees.** In the event title to any Unit should be conveyed to a land trust, under which all powers of management, operation, and control of the premises remain vested in the trust beneficiary or beneficiaries, then the trust estate under the trust, and the beneficiaries thereunder from time to time, shall be liable for payment of any obligation, lien, or indebtedness chargeable or created under this Declaration against the Unit. No claim shall be made against any such title-holding trustee personally for payment of any claim, lien, or obligation hereby created, and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or obligation, but the amount thereof shall continue to be a charge or lien on the premises, notwithstanding any transfer of beneficial interest or in the title of the real estate.

IN WITNESS WHEREOF, Great Central Properties III, LLC has caused its name to be signed to these presents, this \_\_\_\_ day of \_\_\_\_\_, 2020.

*/See signature on following page/*

**GREAT CENTRAL PROPERTIES III, LLC,**  
an Illinois limited liability company



EXHIBIT A

LEGAL DESCRIPTION OF THE PARCEL

LOT 1 IN NICHOLS PLACE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 18, 2019 AS DOCUMENT R2019-028538, IN DUPAGE COUNTY, ILLINOIS,

PIN: 07-13-424-006

COMMONLY KNOWN AS 110 S. WASHINGTON STREET, NAPERVILLE, IL 60540

MORTGAGEE CONSENT

Lakeside Bank, holder of the note(s) secured by Mortgage recorded April 3, 2019 as Document R2019-024406 and Assignment of Rents recorded April 3, 2019 as Document R2019-024405, does hereby consent to the execution and recording of the Declaration of Easements, Covenants and Restrictions For Central Park Place to which this Consent is attached.

IN WITNESS WHEREOF, Lakeside Bank has caused this instrument to be signed by its duly authorized officers on its behalf this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

LAKESIDE BANK

By: \_\_\_\_\_ Attest: \_\_\_\_\_

STATE OF ILLINOIS            )  
                                          )  
COUNTY OF \_\_\_\_\_        )

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be the Officers of Lakeside Bank and personally known to me to be the same persons whose names are subscribed to the foregoing instrument appeared before me this day in person and acknowledged that as such Officers they signed, sealed, and delivered said instrument as their free and voluntary act, and as their free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public