

October 6, 2016

THIRD AMENDMENT TO THE DECLARATION OF CONDOMINIUM OF
5000 FIFTH AVENUE CONDOMINIUM ASSOCIATION

WHEREAS, 5000 Fifth Avenue Condominium ("5000 Fifth Avenue") was created by recording a Declaration in the Office of the Recorder of Deeds of Allegheny County ("Recorder of Deeds") on or about January 31, 1980, at Deed Book Volume 6217, Page 653 ("Declaration"); and

WHEREAS, a First Amendment to the Declaration dated November 14, 1980 was recorded in the Office of the Recorder of Deeds at Deed Book Volume 6327 beginning at Page 9 on or about December 2, 1980; and

WHEREAS, a Second Amendment to the Declaration, dated June 6, 1985, was recorded on or about October 15, 1985 in the Office of the Recorder of Deeds in Deed Book Volume 7174, Page 187; and

WHEREAS, the Declaration, at Section 9, sets forth certain standards to maintain the community and protect the property values and investments for each Unit Owner; and

WHEREAS, the Declaration, at Section 9, provides Council with an option to purchase a Unit in the event a Unit Owner receives an acceptable, arms length, bona fide "Outside Offer" to purchase the Unit Owner's Unit; and

WHEREAS, the Declaration makes reference to leasing a Unit, and the Unit Owners and Council of the Condominium Association have determined that it would be in the best interest of the Condominium Association to restrict future leasing for the purpose of maintaining the quality of residential living within 5000 Fifth Avenue; and

WHEREAS, the Declaration, at Section 13(b), provides that a resolution adopting a proposed Amendment must be approved by Unit Owners holding not less than seventy-five (75%) per cent of the proportionate undivided interest in the Common Elements, and further provides that Unit Owners not present at the meeting considering the Amendment may express their approval to the Secretary of Council, in writing, either before such meeting or within thirty (30) days following such meeting; and

WHEREAS, this Third Amendment has been approved by following the procedure of obtaining an affirmative vote of Unit Owners holding not less than seventy-five (75%) per cent of the proportionate undivided interest in the Common Elements entitled to cast a vote at 5000 Fifth Avenue.

NOW THEREFORE, after obtaining an affirmative vote of the Unit Owners holding not less than seventy-five (75%) per cent of the proportionate undivided interest in the Common Elements, the Declaration of 5000 Fifth Avenue is hereby amended as follows:

First: The above recitals are incorporated herein by reference.

Second: Section 9 of the Declaration of 5000 Fifth Avenue is hereby amended as follows:

9. MAINTENANCE OF COMMUNITY INTEREST: To maintain a community of congenial residents and to protect the value of the Units and to assure the financial ability of each Unit Owner to pay assessments made against him or her, the transfer of any Unit shall be subject to the following provisions of the Declaration, as amended, which provisions each Unit Owner covenants to observe:

a) No Unit Owner may sell or transfer his or her Unit or any interest therein except by complying with the provisions of this Section 9; and

b) All Units shall be occupied by the Unit Owner or a member of the Unit Owner's family (as defined below) for residential purposes only. A transfer or sale by a Unit Owner to a family trust or family partnership will not be considered to be an Outside Offer (as defined below) provided that the family trust or family partnership is for the benefit of a member of the transferring or selling Unit Owner's family and the residents of the Unit are the trustee and/or the beneficiaries who constitute a member of the transferring or selling Unit Owner's family and the family trust or family partnership limits the use of the Unit for single family residential purposes only. For purposes of this section, family or immediate family mean individuals interrelated by blood, adoption or marriage who are the parents, children or grandchildren of the Unit Owner. The provisions of Section 7(a) shall remain in full force.

c) No Unit Owner may rent or lease his/her Unit or any portion thereof. Any leasing or renting of a Unit by a Unit Owner is prohibited. The occupancy of a Unit by a non-Unit Owner will be deemed a lease regardless of whether rent or other consideration is exchanged between the parties. The occupancy of a Unit by a Unit Owner's immediate family shall not be deemed a lease of the Unit and shall be permitted.

d) Any Unit Owner who receives an arms length, bona fide offer for the sale of his or her Unit (hereinafter called an "Outside Offer") which he or she intends to accept, shall give notice to the Council of the name and address of the proposed purchaser together with a copy of such Outside Offer containing a full

description of the terms thereof and such other information as the Council may reasonably require. The giving of such notice shall constitute a warranty and representation by the Unit Owner who has received such Outside Offer to the Council on behalf of all the Unit Owners that such Unit Owner believes the Outside Offer to be bona fide in all respects. The Unit Owner shall offer to sell such Unit to the Condominium Association, or its designee, on behalf of the Unit Owners of all other Units, on the same terms and conditions as contained in such Outside Offer. The Unit Owner offering to sell a Unit shall certify that such Unit Owner believes the Outside Offer to be bona fide in all respects. The procedure for complying with this Section shall be as follows:

(i) within fifteen (15) days after Council's receipt of an Outside Offer from a Unit Owner to purchase the Unit from the Unit Owner, Council shall notify all Unit Owners and the Unit Owner of its intention to exercise or decline the option to exercise the right to purchase said Unit, on behalf of all other Unit Owners, on the same terms and conditions as contained in the Outside Offer and as stated in the notice from the Unit Owner; and

(ii) in the event that Unit Owners holding not less than seventy-five per cent (75%) of the Common Elements agree to purchase the Unit within fifteen (15) days of notice from Council, Council shall elect to purchase such Unit or cause the same to be purchased by its designee, and title shall close in accordance with the terms and

conditions in the Outside Offer at the office of a title company designated by Council on the date specified in the Outside Offer, or if no date is specified, within forty-five (45) days after giving notice by Council of its election to accept such Outside Offer; or

(iii) in the event Council or its designee shall fail to accept such Outside Offer within fifteen (15) days, the Unit Owner may, within sixty (60) days after the expiration of the period in which the Council or its designee might have accepted such Outside Offer, sell the Unit to the Outside Offeror on the terms and conditions set forth in the notice of such Outside Offer from the Unit Owner to Council; and

iv) the right of first refusal contained in these provisions may be released or waived by Council in writing, in which event the Unit may be sold and/or conveyed free and clear of the provisions of this Section.

e) Any Deed to an Outside Offeror shall provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the Code of Regulations and the Rules and Regulations, as the same may be amended from time to time.

f) In the event the offering Unit Owner shall not, within such 60-day period, sell such Unit to the Outside Offeror on the terms and conditions contained in the Outside Offer, or if such contract is not fulfilled, then the Unit Owner shall be required to comply with all of the terms and conditions of this

Section 9 in order to sell the Unit to a subsequent offeror.

g) Upon written request of any prospective transferee, purchaser or an existing or prospective holder of a Permitted Mortgage (as defined in Section 10 of the Declaration) on any Unit or any interest therein, Council shall immediately, or, if any time period is stated, before the end of such time period, issue an acknowledged certificate in recordable form, which certificate shall be conclusive evidence of the facts contained therein, evidencing that:

(i) with respect to a proposed sale under Section 9 of the Declaration, proper notice was or was not given by the selling Unit Owner and that Council did or did not elect to exercise its option to purchase; and

(ii) with respect to a deed to a holder of a Permitted Mortgage or its nominee in lieu of foreclosure, and a deed from such holder or its nominee pursuant to Section 9 of the Declaration, such deed is subject to the provisions of Section 9 of the Declaration as amended; and

(iii) with respect to any contemplated transfer which is not a sale, the transfer is subject to the provisions of Section 9 of the Declaration as amended.

h) If any Unit Owner shall default under a Permitted Mortgage secured upon his/her Unit or any interest therein, and such default shall entitle the holder thereof to foreclosure, including delivery of a deed to such holder in lieu of foreclosure, the delivery of such deed shall be subject to the

provisions of Section 9 of the Declaration, and the purchaser (or grantee under such deed in lieu of foreclosure) of such Unit or any interest therein shall be thereupon and thereafter subject to the provisions of the Declaration, the Code of Regulations and the Rules and Regulations of 5000 Fifth Avenue.

No Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate or sell his Unit unless and until he has paid in full to the Association all unpaid common charges or other obligations owed to the Association theretofore assessed by the Council against his/her Unit.

j) If any Unit Owner attempts to sell his/her Unit or any interest therein without giving Council the right of first refusal as herein provided, such sale shall be void and shall confer no title or interest whatsoever upon the intended purchaser or lessee; except that a transfer of ownership or sale to immediate family members as defined in Section 9(b) or to a family trust or family partnership referenced in Section 9(b) is not considered a sale for this purpose provided the new Unit Owner acknowledges that the Unit is to be used for single family residential purposes only and the occupants are bound by the Declaration, Code of Regulations, and Rules and Regulations of 5000 Fifth Avenue.

It is understood that any such family trust and family partnership formed shall be subject to the provisions of this paragraph Second.

Third: Section 11 of the Declaration of 5000 Fifth Avenue is hereby amended as follows:

11. The Council shall have the power to purchase Units only if seventy-five percent (75%) of the Unit Owners holding seventy-five percent (75%) of the Common Elements agree to purchase a Unit within fifteen (15) days of notice from Council that Council has elected to purchase a Unit or cause the same to be purchased by its designee subject to the terms of an Outside Offer. In all other respects, Section 11 is hereby deleted.

Fourth: This Amendment shall become effective as of the date of recording with the Recorder of Deeds, and shall continue so long as the property is subject to the Act.

Fifth: All other provisions of the Declaration, Code of Regulations, Rules and Regulations, as well as any Amendments to the Declaration, Code of Regulations and Rules and Regulations for 5000 Fifth Avenue shall remain in full force and effect to the extent not inconsistent herewith.

IN WITNESS WHEREOF, the undersigned officers of 5000 Fifth Avenue have executed this document for the purposes contained herein, this 18th day of October, 2016.

5000 FIFTH AVENUE

CONDOMINIUM ASSOCIATION


SECRETARY


PRESIDENT

By Donna L. Williams
NOTARY PUBLIC

