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DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR THE  
RIDGELAND MANOR EAST TOWNHOMES  
MATTESON, ILLINOIS

48

RIDGELAND MANOR HOMES L.L.C., DEVELOPER

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**BOX 333-CT1**

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## DECLARATION OF COVENANTS, CONDITIONS RESTRICTIONS AND EASEMENTS FOR THE RIDGELAND MANOR EAST TOWNHOMES

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DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR THE  
RIDGELAND MANOR EAST TOWNHOMES  
MATTESTON, ILLINOIS

THIS DECLARATION (the "Declaration"), is made and entered into as of this 25 day of October, 2000, by the First United Bank, as Trustee under a Trust Agreement dated October 15, 1998, and known as Trust Number 1893, and not individually, (the "Declarant").

W I T N E S S E T H

WHEREAS, the Declarant is the title holder of record of the real estate (the "Real Estate") described in Exhibit "A", attached hereto;

WHEREAS, the Declarant intends to submit the Real Estate together with all buildings, structures, improvements and other permanent fixtures of whatever kind thereon, and all rights and privileges pertaining thereto to the provisions of this Declaration; and

WHEREAS, by submitting Real Estate to this Declaration, the Declarant intends that all Owners and other Persons acquiring any interest in any Townhome shall hold their interests subject to this Declaration;

NOW, THEREFORE the Declarant, hereby incorporates the aforementioned Recitals herein and **DECLARES AS FOLLOWS:**

**I. DEFINITIONS**

1.01 "Act" means the General Not For Profit Corporation Act of 1986, 805 ILCS 105 et.seq.) as amended from time to time.

1.01.05 "Additional Property" means land that is located in the Ridgeland Manor Subdivision and contiguous parcels.

1.02 "Association" means the Ridgeland Manor Townhome Association, an association of the Owners acting pursuant to this Declaration and the Bylaws. Once the Association is incorporated under the Act, "Association" shall refer to the entity so incorporated, its successors and/or assigns.

1.03 "Board" or "Board Members" means the Board of Directors of the Association.

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1.04 **"Building"** means the structure on a Lot containing dwelling units.

1.05 **"By-Laws"** means the By-Laws of the Association, attached hereto as **Exhibit "B"**, as amended from time to time.

1.06 **"Common Area"** means the Outdoor Portions of the Townhomes.

1.07 **"Common Expenses"** means the cost of:

- A. administration and operation of the Association;
- B. the maintenance, repair, replacement of the Common Area and related reserves;
- C. insurance premiums of policies required or allowed under this Declaration to be the responsibility of the Association; and
- D. such other expenses that are expressly deemed Common Expenses in this Declaration or are incurred for the same purposes for which assessment may be levied pursuant to Article X of this Declaration.

1.08 **"Common Lot"** means the Lot(s) that are intended as open space and/or detention areas, as provided for in this Declaration, as amended from time to time.

1.09 **"Declarant"** means the First United Bank, as Trustee under Trust Agreement dated October 15, 1999, and known as Trust No. 1893, including its successors and/or assigns.

1.10 **"Declaration"** means this instrument, as amended from time to time.

1.11 **"Delivery Date"** means the date upon which all material books and records of the Association are delivered by the Developer to the Secretary of the Association appointed by the First Board.

1.12 **"Developer"** means RIDGELAND MANOR HOMES, L.L.C., an Illinois limited liability company, or its successors and/or assigns.

1.13 **"First Board"** means the first Board elected after the Turnover Date.

1.14 **"Interest Rate"** means fifteen percent (15%) per annum.

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1.15 A "Lot" is a parcel of Real Estate designated as a Lot on the Plat.

1.16 "Majority" or "majority of the Owners or Voting Members" means more than fifty percent (50%) of the Voting Members entitled to vote from time to time pursuant to the By-Laws. Any specific percentage of Owners or Voting Members means such percentage of the aggregate number of Owners or Voting Members entitled to vote from time to time pursuant to the By-Laws.

1.17 "Master Declaration" means the Master Declaration of Covenants, Conditions, Restrictions and Easements for the Ridgeland Manor Development, Matteson, Illinois that was recorded in the Cook County Recorder of Deeds on January 11, 1999 as Document No. 99-028242.

1.18 "Mortgagee" means a lender whose mortgage constitutes a lien against a Townhome or who is a holder of a note secured by a trust deed which constitutes a lien against a Townhome.

1.19 "Occupant" means a person or persons in possession of a Townhome, regardless of whether said person is an Owner.

1.20 "Outdoor Portion of the Townhome" means the area of a Townhome from and including the surface of the Building containing that Townhome outward to the perimeter boundary of the Townhome.

1.21 "Owner" means the person(s) whose name(s) appear as the title holder of record of a Townhome.

1.22 "Party Wall" means all walls of a Townhome or Townhomes which serve two or more Townhomes, and any internal components therein presently existing, or hereafter installed, and designed for the common use of two adjacent Townhomes.

1.23 "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property under the laws of the State of Illinois.

1.24 "Plat" means the plat of subdivision recorded in the Cook County Recorder's Office on May 28, 1998, as Document No.98-445082, and known as "Ridgeland Manor Phase One Resubdivision" and such other plat(s) of subdivisions that may create lots in the Additional Property.

1.25 "Real Estate" means the parcel of real property described in Exhibit "A" and all improvements and structures now or hereafter erected, constructed or contained thereon or therein, and

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all easements, rights and appurtenances now or hereafter belonging thereto the provisions of this Declaration.

1.26 "Record" or "Recording" refers to record or recording in the office of the Recorder of Deeds of Cook County, Illinois.

1.27 "Townhome" or "Unit" means the portion of a Lot physically improved by a Building and designated by the Declarant and/or Developer for use as a separate single family dwelling unit and legally described by the first recorded survey, plat or instrument expressly describing such portion of a Lot as a Townhome or Unit. This Declaration need not be amended to create a Townhome or Unit. Each Townhome shall include the structural components of the Building in which such Townhome is located, and all pipes, wires, conduits, ducts, flues, shafts, public utility lines, situated within such Townhome and forming part of any system serving one or more other Townhomes, the driveway, and patio, the exterior walls and roof thereof and the interior one-half (½) of any Party Wall separating said Townhomes.

1.28 "Turnover Date" means the earlier of:

A. the date five (5) years from the date of Recording of this Declaration, or if this Declaration is amended to include Additional Property pursuant to paragraph 3.05 hereof, five (5) years from the date of Recording of such amendment; or,

B. the first date on which deeds for all the Townhomes contemplated to be located on the Real Estate and the Additional Property have been conveyed to Owners other than the Developer; or,

C. the date established as the Turnover Date in a written notice by the Developer to the Owners.

1.29 "Village" means the Village of Matteson, Illinois.

1.30 "Voting Member" means an Owner entitled to vote on a matter before the Association.

## II. SCOPE OF DECLARATION AND CERTAIN PROPERTY RIGHTS

2.01 Conveyances Subject to Declaration. All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the Real Estate and/or portions thereof and shall at all times inure to the benefit of and be binding on any Person having at any time any interest or estate in a Townhome, and their respective heirs, successors, personal representatives or assigns. Each grantee of the Declarant and



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their successors and/or assigns, by the acceptance of a deed of conveyance, a mortgage or a trust deed, accepts said deed, mortgage or trust deed, as the case may be, subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. Reference in any deed of conveyance, lease, mortgage, trust deed, other evidence of obligation, or other instrument to the provisions of this Declaration shall be sufficient to create and reserve all of the easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved, or declared by this Declaration, as fully and completely as though they were set forth in their entirety in any such document.

2.02 Restriction on Subdividing. No Owner other than the Developer shall subdivide, partition or in any other manner cause his Townhome to be separated into any tracts or parcels different from the whole Townhome as originally conveyed to such Owner.

### III. GRANT OF EASEMENTS; RESERVATION

3.01 Easement In Favor of Owners to Use the Common Area. The Declarant hereby grants each Owner and their respective licensees a non-exclusive easement over the Common Area for the purpose of ingress to and egress from their respective Townhomes. All rights to use the Common Area shall be subject to and governed by the provisions of the Declaration, the By-Laws and the Rules and Regulations of the Association.

3.02 Blanket Easement In Favor of Developer and Other Parties. The Declarant reserves for itself, the Developer and the Association and their respective licensees, successors and assigns a blanket easement over the Common Area for the purposes of:

- A. ingress to and egress from the Townhomes.
- B. construction, installation, repair, replacement and restoration of Storm Lines, Water and Sanitary Lines, utilities, roads, the Building, landscaping and any other improvements on the Real Estate;
- C. executing repairs and maintenance authorized or required by this Declaration or the Bylaws to be completed by the Association;
- D. tapping into and using sewer, water or other utility lines on or adjacent to the Townhomes; and
- E. the installation and maintenance of signs advertising the Townhomes constructed or to be constructed on the Real Estate,

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and signs directing potential purchasers to the sales office maintained in connection therewith; and

F. enabling the Developer to exercise the rights reserved by the Declarant under this Declaration.

3.03 Blanket Utility Company Easements. The Declarant reserves for itself, the Developer and the Board and their respective licensees, successors and assigns the right to grant specific easements or blanket easements over the Common Area in favor of the Village, Illinois Bell Telephone Company, Commonwealth Edison Company, Northern Illinois Gas Company, all other public utilities serving the Real Estate and any person providing cable television or other commercial entertainment to any Owners or to the Real Estate, granting such utilities or persons, as the case may be, the right to lay, construct, renew, operate and maintain conduits, cables, pipes, electrical wiring, transformers and switching apparatus and other equipment including housings for such equipment, into, over, under, along and through the Common Area for the purpose of providing utility and commercial entertainment services to the Townhomes, together with reasonable rights of ingress to and egress from the Townhomes for such purpose, and granting further such utility and other entities the right to install, lay, operate, maintain, repair and replace any pipes, electrical wiring, ducts, conduits, cables, public utility and commercial entertainment lines or structural components running through the walls of a Townhome, whether or not such walls lie in whole or in part within the Townhome boundaries. The Declarant reserves for itself, the Developer and their successors or assigns the right to grant other or additional easements for utility or commercial entertainment purposes for the benefit of the Real Estate, under, along and on any portion of said Common Area.

3.04 Certain Rights Reserved to Developer. The right is reserved by Declarant for Developer, or its agents to conduct sales and construction activity on the Real Estate, to place and maintain on the Real Estate all models, sales offices, advertising signs and banner and lighting in connection therewith, and other promotional facilities at such locations and in such forms as shall be determined by Developer. There is also reserved by the Declarant for Developer, its agents and prospective purchasers and tenants, the right of ingress, egress and transient parking in and through the Real Estate. Declarant also reserves the right for Developer to maintain on the Real Estate without charge:

A. a general office for the purpose of exercising its development, construction, sales and management rights; and

B. appropriate permanent and transient parking facilities for the employees of Developer and of Developer's agents and for prospective purchasers of Townhomes. Developer's aforesaid

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reserved rights shall exist at any time Developer is engaged in the sale or leasing of Townhomes.

3.05 Additional Property. For a period expiring five (5) years from the recording of this Declaration, the Declarant reserves the right and option, at any time and from time to time, to add-on and annex Additional Property to the Real Estate by recording of an instrument annexing the Additional Property to the Real Estate. Upon the recording of every such instrument, the Additional Property shall be deemed submitted to and governed in all respects by the provisions of this Declaration. Until the Additional Property is specifically annexed to Real Estate as provided herein, this Declaration shall not affect the Additional Property.

3.06 Developer's Rights Prevail. The sales, development, and construction activity rights of Developer shall continue until Declarant's sale or rental of all Townhomes unless Developer, by written notice to the Association, elects to terminate such rights prior to such date. All rights and easements created by this Declaration are subject and subordinate to the aforementioned rights of Developer; provided, however, that the Developer shall not exercise any of such rights in a manner so as to prevent the exercise of the Owners' rights of use and enjoyment of his or her Townhome.

## IV. VILLAGE OF MATTESON SERVIDITUDES

4.01 In General. In addition to any rights, powers or easements granted to the Village elsewhere in this Declaration, the Master Declaration or under the Village Ordinance, the Village shall have the rights, set forth in this Article.

4.02 Maintenance. The Association shall maintain the Common Area in compliance with all the applicable laws and ordinances of the Village and all governmental bodies having jurisdiction over the Real Estate, as such laws and ordinances may be amended and enforced from time to time. Without limiting the foregoing, the Association shall maintain the Common Area in good condition and free from accumulation of debris and growth of weeds.

4.03 Master Declaration. The Real Estate and the Additional Property shall be owned and maintained in conformity with the Master Declaration.

## V. REAL ESTATE TAXES

5.01 Tax Bills. The Lots shall be divided into Townhomes having separate property index (tax) numbers. Each Owner shall pay the tax bill for his/her own Townhome. In the event that real estate taxes for any year are not separately taxed to each Owner,

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the Developer shall equitably prorate the taxes amongst the Developer, the Owner and the Association. The Developer may pay the entire tax bill in question and shall be reimbursed by the Owners and the Association their prorata shares immediately upon request.

5.02 Tax Divisions. Each Owner and Mortgagee hereby irrevocably grants the Developer and the Board an irrevocable power of attorney coupled with an interest to execute, acknowledge and record in the name of such Owner, Mortgagee or Association, such tax division petitions or other instruments or documents as may be necessary to effectuate tax divisions of the Real Estate from time to time, consistent with the terms of this Article.

## VI. ASSOCIATION OF OWNERS

6.01 The Association. Subject to paragraph 6.05 hereof, the Association shall be organized under the Act as an Illinois not-for-profit corporation, anytime after the recording of this Declaration, but no later than thirty (30) days following the election of the First Board. The Association shall be the governing body for all the Owners, for the purposes of administration, operation, maintenance, repair and replacement of Common Area, all as provided in this Declaration. The Association shall have the duties and authority provided in this Declaration, any applicable Articles of Incorporation, the Bylaws attached hereto and the Act.

6.02 Membership. Each Owner shall automatically become a member of the Association upon becoming an Owner and shall remain a member of the Association so long as he or she shall be an Owner. No Townhome shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of a Townhome which is subject to assessment by the Association. Upon the transfer of an Owner's ownership interest to a new Owner, the new Owner shall simultaneously succeed to the former Owner's membership in the Association without any further action on the new Owner's part.

6.03 Voting Rights. The Association shall have one class of voting membership as provided in Articles of Incorporation of the Association and/or the By-laws. So long as an Owner is delinquent on payment of assessment or any other sums owing to the Association, that Owner shall be ineligible to vote on any matter pending before the Association membership for a vote.

6.04 Powers. The Association shall have all the powers conferred upon a not-for-profit corporation under the Act, except to the extent inconsistent with the Declaration, the Articles of Incorporation or the By-laws.

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6.05 Interim Developer Control. Until the Association shall have been organized under the Act and the Board shall have assumed its duties and powers, the Developer shall have all the rights, powers, duties and obligations herein granted to or imposed upon the Association and shall be authorized and empowered to take all such actions as the Board would have been authorized and empowered to take if the Association had then been organized and Board positions filled. After the Association has been organized and prior to the Turnover Date, the Developer shall have the authority to appoint the Board. After the Turnover Date, the Board shall take no action in contravention with the rights and powers reserved by the Declarant and/or Developer hereunder.

## VII. MAINTENANCE, REPAIRS AND REPLACEMENTS

### 7.01 Maintenance, Repairs and Replacements of Townhomes.

A. Except as otherwise provided herein, each Owner shall be responsible for the maintenance and repair of the interior and exterior portions of his or her Townhome, including the structural components and utility facilities and shall keep his/her Townhome in first-class condition and repair. Except as otherwise provided herein, maintenance, repair and replacement of all screens, windows, doors, door jams, window frames and wood decks shall be paid for solely by the Owner of the Townhome requiring maintenance replacement or repair. Whenever the Board shall determine, in its discretion, that maintenance or repair of any Townhome otherwise required to be maintained by an Owner is necessary to protect the Outdoor Portions of the Townhomes or any other portion of the Building or to maintain the harmonious appearance of the Building, the Board may execute the maintenance or repairs and assess the Owner whose Townhome is affected.

B. The Association **SHALL** provide normal and customary exterior maintenance of the Outdoor Portion of Townhomes without special charge to the Owner as follows:

1. Lawn care and landscape maintenance (including watering and fertilizing).
2. Repair of shingles, roof and flashing on roofs.
3. Painting and repair of exterior walls and siding.
4. Painting and cosmetic repair of garage doors.
5. Painting or repair of gutters, fascia and downspouts.
6. Repair and replacement of chimneys and exterior fireplace parts.

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7. Replacement of trees, grass and shrubs.

C. The Association **MAY** in its discretion provide maintenance for the following items located on the Outdoor Portions of Townhomes with or without special charge to Owners:

1. Repair and maintenance of front and rear stoops.
2. Repair and maintenance of outside electrical fixtures.
3. Repair and maintenance of patios, decks or other homeowner installed improvements.
4. Repair and maintenance of sewer and water lines.
5. Repair and maintenance of glass surfaces.
6. Repair and maintenance of walks and driveways.
7. Removal of snow from driveways and walks within 24 hours when accumulation is 1 inch or more.

D. The cost of any maintenance to the Outdoor Portions of the Townhomes which, by the terms of this Declaration, the Association is required or permitted to furnish shall be paid as a Common Expense. If the Association furnishes maintenance with respect to a Townhome at the request of an Owner other than that required by this Declaration, the Association may require such Owner to pay the cost thereof.

E. For the purposes solely of performing the maintenance required or authorized by this Article, the Association through its duly authorized agents or employees shall have the right after reasonable notice to the Owner to enter upon any Townhome at reasonable hours on any day.

F. The foregoing services provided by the Association with respect to Outdoor Portion of a Townhome shall be limited to normal wear, tear and deterioration, and the Owner shall be solely responsible for repair and replacement caused by excessive wear and tear or neglect. In the event the Owner shall fail to effect promptly the repairs and replacements required of him or her, including those occasioned by insurable casualty, the Association may (but shall not hereby be required) to effect such repairs and replacements and the Association shall, upon demand, be entitled to reimbursement in full from the Owner for its costs of every kind incurred in this connection, including the right to receive applicable insurance proceeds. If, in such circumstances, the Association shall elect to undertake such repairs and replacements, the Association shall have the right through its agents, employees

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and independent contractors, to enter upon the Townhome to the extent necessary for the aforesaid purpose and shall not be guilty of any trespass. Such costs to the Association for repairs and replacement shall become the personal obligation of the Owner and continuing lien on the Townhome recoverable with interest, costs and reasonable attorney's fees in the same manner and to the same extent as provided under Article XIV hereof with respect to delinquent assessments.

7.02 Maintenance of Party Walls. Maintenance and Costs related to Party Walls shall be borne equally by the Owners of the adjacent Townhomes. All disputes regarding a Party Wall, including but not limited to disputes regarding the allocation of costs of repair, maintenance and replacement thereto and thereof shall be submitted to the Board, whose determination shall be final and binding upon all parties involved.

7.03 Discharge of Liens. The Board may cause to be discharged any mechanics' lien or other encumbrance which, in the opinion of the Board, may constitute a lien against more than one Townhome. When less than all the Owners are responsible for the existence of any such lien the Owners responsible shall be jointly and severally liable to pay the Association, upon demand, the amount incurred by the Association to discharge the same and for all costs and expenses (including reasonable attorneys' fees and expenses) incurred by reason of such lien.

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## VIII. DAMAGE OR DESTRUCTION AND RESTORATION

### 8.01 Common Lots.

A. Property Damage. The Board shall obtain insurance for the Common Lots against loss or damage by fire, debris removal, lightning, windstorm, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the Common Lots and against such other hazards and for such amounts as the Board may deem advisable. Insurable replacement cost shall be deemed the cost of restoring the improvements constituting the Common Lots, or any part thereof to substantially the same condition in which they existed prior to the damage or destruction. Such insurance coverage shall be written in the name of the Association. The Developer and the Declarant shall be included as an additional insured and loss payee. All policies of insurance shall contain a waiver of any possible co-insurance penalty or an agreed amount endorsement for the blanket property limit of liability, and a waiver of any defenses based upon invalidity arising from the acts of the insured, and shall contain a waiver of subrogation rights by the insurer against individual Owners, and against the Declarant and Developer and all employees and agents of each of them and all tenants and others holding through or under Declarant, Developer or any Owner. All policies of property insurance shall provide that notwithstanding any provisions thereof which give the insurer the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Association or when in conflict with the provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law. During the period while the improvements to the Real Estate are still under construction, the above insurance requirements shall be deemed satisfied by the so-called "All-Risk Builder's Risk" on a completed value basis for the full insurable value of the improvements under construction on the Common Lots.

B. Liability Insurance. The Board shall obtain comprehensive public liability insurance for not less than \$1,000,000.00 for bodily injury and property damage for any single occurrence, and such workmen's compensation insurance and other liability insurance as it shall deem desirable, insuring individually and severally, each Owner, the Association, its officers, directors and board, the Declarant, the Developer, the Managing Agent, and their respective officers, directors, employees, agents and all persons acting as agents, if any, from liability in connection with the use, management, existence and ownership of the Real Estate. Each Owner shall be included as an additional insured. The Declarant and the Developer shall be included as additional insured and loss payee. Such insurance shall also contain a waiver of subrogation rights by the insurer



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against any of the above-named additional insured persons, and a waiver of any defenses based upon invalidity arising from the acts of the insured. The Board shall retain in safe-keeping any public liability policy for the period of any applicable statute of limitations.

C. Insufficient Insurance. In the event that the proceeds of any policy insuring against such loss or damage and payable by reason thereof shall be insufficient to pay the cost of repair, restoration or reconstruction, or the affected Common Lots is not insured against the peril causing the loss or damage, either:

1. the Board shall, subject to this paragraph, restore or reconstruct said , using insurance proceeds and reserve funds of the Association, if any, to pay the costs thereof and if said sums are insufficient, the Board shall assess a special assessment to pay therefore as provided for herein; or

2. upon the affirmative vote of seventy-five percent (75%) of the Voting Members voting at a meeting duly called for that purpose, the President of the Association shall take such other action as the Voting Members decide.

## 8.02. Townhomes.

A. Each Unit Owner shall procure and maintain in full force, at all times, insurance covering the Townhomes consisting of or providing all the protections afforded by the insurance now generally described as fire, extended coverage, additional extended coverage, vandalism and malicious mischief, to one hundred (100%) per cent of the full insurable value thereof, with loss payable on the basis of the cost replacement without deduction for depreciation less a deductible amount of no more than five hundred (\$500) dollars. The Association shall be named as an additional insured and loss payee.

B. All said policies: (1) shall contain standard mortgage clause endorsement in favor of the mortgagee or mortgagees of each Townhome, if any, as their respective interest may appear, (2) shall provide that the insurance, as to the interest of the Association shall not be invalidated by any act or neglect of any Owner, (3) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefore, such option shall not be exercisable in the event the Owners elect to sell the Townhome, (4) shall contain an endorsement to the effect that such policy shall not be terminated for non-payment of premiums without at least ten (10) days prior written notice to the mortgagee of each Townhome, (5) shall contain a clause endorsement whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, members of the Board, the Declarant, the Developer, the managing agent, if any, their respective employees and agents

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and the Owners and Occupants, and (6) shall contain a "Replacement Cost Endorsement". The proceeds of such insurance shall be applied by the Board or agent on behalf of the Board for reconstruction of the Building or shall be otherwise disposed of, in accordance with the provisions of this Declaration. The Board may engage the services of and such insurance may be payable to a bank or trust company authorized to do, execute and accept trusts in Illinois, to act as Insurance Trustee, or as Agent or Depositary as an alternative to acting as Trustee, and to receive and disburse the insurance proceeds resulting from any loss upon such terms as the Board shall determine consistent with the provisions of this Declaration. The fees of such bank or trust company shall be a common expense.

C. All repairs, restoration or rebuilding pursuant to the provisions of this Article shall be carried out under such supervision and direction as the Board shall deem appropriate in order to assure the expeditious and correct completion of the work concerned, and the Owner or Owners of each Townhome which shall have been damaged or destroyed shall fully cooperate with, and abide by all instructions and directions of the Association in connection therewith.

D. In the event of any damage or destruction to a Townhome wherein the loss is covered by policies of insurance, the Board shall have the authority to settle and adjust any claim under such policies without the consent of the respective Owners.

E. In the event the Owner fails to repair and restore his or her Townhome within a reasonable time after the damage has occurred and, where applicable, insurance matters involving the Association have been settled, the Board may cause the Townhome to be repaired and the cost thereof shall be a lien in favor of the Association and against the Townhome. If the Board elects to repair, the Owner, by virtue of this Declaration, assents to the Contractors' access to the Townhome and use of the utilities in the Townhome necessary to effectuate the repairs.

## 8.03. Workman's Compensation and Other Insurance

A. The Board shall acquire, as a Common Expense, workman's compensation insurance as may be necessary to comply with applicable laws and such other forms of insurance as the Board, in its judgment, shall elect to obtain, including, but not limited to insurance for the Association, its officers and manager against liability from good faith actions allegedly beyond the scope of their authority.

B. The Board may obtain a fidelity bond indemnifying the Association, the Board, the Owners, Declarant and the Developer for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or the Managing Agent, or of any other

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person handling the funds of the Association, the Board or the Owners in such amount as the Board shall deem desirable but not less than one hundred twenty-five percent (125%) of the amount of the total annual budget. The premium for such fidelity bond shall be a Common Expense. Such bond shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expressions.

C. The Board may obtain errors and omissions insurance and any other insurance as it shall deem desirable, in such amounts, from such sources and in such forms as it shall deem desirable, insuring the Common Area and each member of the Board and officer of the Association, and member of any committee appointed pursuant to the By-Laws of the Association from liability arising from the fact that said person is or was a director or officer of the Association, or a member of such a committee.

D. The Board may obtain any other insurance reasonably required by the Veterans Administration, the Federal Housing Authority, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or any Mortgagee, in such amounts, from such sources and in such forms as it deems desirable.

#### 8.04. General.

A. The premiums for all insurance procured by the Board shall be a Common Expense.

B. Each Owner hereby waives and releases any and all claims which he may have or may obtain against any other Owner, the Association, its officers, members of the Board, the Declarant, the Developer, and Managing Agent of the Real Estate, if any, and their respective directors, officers, employees, attorneys and agents, and all tenants and others holding by, through or under the Declarant and/or Developer, for damage to the Common Area, the Townhomes, or to any personal property located in the Townhomes caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance; provided that this waiver and release shall be effective only if it does not affect the right of the insured under the applicable insurance policy to recover thereunder.

C. Each Owner shall be responsible for obtaining his own insurance on additions and improvements to his/her Townhome, and for decorating, furnishings and personal property therein. Each Owner shall further be responsible for his/her personal liability to the extent not covered by the liability insurance for all of the Owners obtained on the Townhomes by the Board hereunder. In addition, in the event an Owner desires to insure against his personal liability and loss or damage to the Townhomes by fire or other hazards above and beyond the extent that his liability, loss

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or damage is covered by the liability insurance and insurance against loss or damage by fire and such other hazards obtained by the Board for all of the Owners, as above provided, said Owner may, at his option, obtain such additional insurance.

## IX. MANAGEMENT AND OPERATION OF REAL ESTATE

9.01 Management of Real Estate. The management of the Association and the Real Estate shall be vested in the Board. The Board may engage the services of a qualified agent (herein sometimes referred to as the "Managing Agent") to maintain, operate and administer the Common Area. The cost of such services shall be a Common Expense.

9.02 Initial Management Contract. The First Board, appointed as provided herein, may assume, ratify, adopt and approve a management agreement between the Developer and a Managing Agent for a term of one (1) year and for a monthly rate and subject to such terms as are consistent with competitive rates and terms prevailing in the area in which the Real Estate is located, payable by the Association as a Common Expense.

## X. ASSESSMENTS

10.01 Purpose of Assessment. The assessments levied by the Association shall be used for the purposes of (i) maintenance, repair, replacement, improvement and additions of and to the Common Area and the improvements thereon; (ii) payment of all taxes, insurance, utilities, professional (including accounting and legal) and other services, materials, supplies, equipment and other costs and expenses incidental to the ownership and/or management of the Common Area and all facilities and improvements thereon; (iii) maintenance, repair and replacement of the Outdoor Portions of Townhomes which are the responsibility of the Association; (iv) raising contingency and capital reserves; (v) otherwise paying Common Expenses; and (vi) enabling the Association to carry out its duties and obligations as stated herein and in the By laws.

10.02 Creation of the Lien and Personal Obligation for Assessments. Each Owner (excluding Declarant), by acceptance of a deed for his/her Townhome, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant to timely pay all assessments and charges levied pursuant to this Declaration and the By-laws (including Rules and Regulations), plus interest at the Interest Rate from the date same becomes due plus costs of collection thereof including reasonable attorney's fees, as hereinafter provided. Such assessments, interest, charges and costs shall constitute a continuing lien upon the Townhome against which such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees, shall also be the continuing personal obligation of the Person who was the Owner

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of such Townhome at the time when such assessment or charge fell due. The lien shall be subordinate to the lien of a Mortgagee's except for the assessments which first become due and payable from and after the "Priority Date", which date shall be defined as the earlier of the date on which the Mortgagee (or the grantee in any sheriff's deed or marshall's deed) either: (a) takes possession of the Townhome; or (b) accepts a conveyance of any interest therein (other than as security); or (c) causes a receiver to be appointed. The liability of the Mortgagee (or the grantee in any sheriff's deed or marshall's deed) for assessments shall be the amount first becoming due and payable after the Priority Date and the lien for all Assessments first becoming due and payable prior to the Priority Date shall be extinguished thereon. In a voluntary conveyance of a Townhome, the lien for said Assessments on such Townhome is assumed by said grantee.

10.03 Assessment Procedures - Annual Assessments. Assessment procedures shall be governed by the By-laws, as amended from time to time.

10.04 Uniform Assessments/ Developer Exceptions. Both annual and special assessments must be fixed as a uniform rate for all Townhomes, provided that no Townhome owned by the Declarant (or its successors): (a) shall be subject to assessment unless a certificate of occupancy has been issued by the Village for that Townhome; and (b) shall not be subject to pay into any assessment for a capital contingency reserve.

10.05 Commencement of Annual Assessments. Annual assessments shall commence upon conveyance of the first improved Townhome by Declarant after the recording of this Declaration. Until the Turnover Date, the monthly assessment for each Townhome subject to assessment hereunder shall be established by the Developer. Until the Turnover Date, the Developer shall pay to the Association the amount, if any, by which actual operating expenses exceed the aggregate of the assessments established and received from Owners (excluding Declarant). "Actual operating expenses" means those expenses actually incurred that are reasonably necessary to normal maintenance and operation of the Common Area and of those Outdoor Portions of the Townhomes and the improvements thereon which the Association is to provide and does not include extraordinary expenses nor include capital expenditures, reserves, prepaid items, inventory items or similar expenses to the extent attributable to any subsequent period.

10.06 Initial Contribution. At each closing of the sale of a Townhome by the Declarant after the recording of this Declaration, the Owner purchasing such Townhome will be required to make a non-refundable, non-assignable contribution to the Association in the amount of two month's assessments. Such payment may be used by the Association to pay Common Expenses, regardless of when the obligation for the particular Common Expense arose,

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and/or deposited into a reserve contingency fund maintained on behalf of the Association.

## XI. MORTGAGES

11.01 Right of Grant Mortgage. Each Owner shall have the right, subject to the provisions herein, to make separate mortgages for his respective Townhome.

11.02 Notice to Mortgagees. A. Each Mortgagee, upon written request, shall be entitled to receive written notice in the event of either damage to or destruction of a substantial portion of its respective mortgagor's Townhome or institution of a condemnation or eminent domain proceeding with respect to its respective Mortgagor's Townhome.

B. The Association shall, upon written request of any Mortgagee, give such Mortgagee prompt notice of any default in its respective mortgagor's obligations under the Declaration and the By-Laws which is not cured within thirty (30) days after written notice of such default from the Association to such Owner and a copy of all notices permitted or required hereunder to be given to said Owner; provided, that the foregoing shall not impair the rights of the Association to pursue any remedies available to it or resolve or cure any such default.

## XII. ENCROACHMENTS AND PARTY WALLS

12.01 Encroachments. If any portion of a Townhome (including Party Walls) encroaches upon any portion of any other Townhome as a result of the construction, repair, reconstruction, settlement, movement or shifting of any of the Townhomes, a valid mutual easement shall exist in favor of the respective Owners involved to the extent of such encroachments, so long as the same shall exist. A valid easement shall not exist in favor of any Owner who creates an encroachment by his intentional, willful or grossly negligent conduct or that of his agent.

12.02 Reconstruction and Repair. The mutual easements, or cross-easements hereby created shall not terminate in the event that any Party Wall, or portion thereof, has been destroyed or materially damaged by fire or other cause but shall remain in full force and effect. License is hereby granted to Owners of the adjacent Townhomes for reasonable access onto adjoining Townhomes for the purpose of rebuilding destroyed or materially damaged Party Walls, and any electric wiring or plumbing pipes or fixtures contained therein. Any Owner served by such materially damaged or destroyed Party Wall who shall have rebuilt same shall be entitled to receive from the Owner of the other adjacent Townhome also served by such Party Wall, an amount equal to one-half (½) of the

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cost of rebuilding same, including the costs of foundations and supports necessarily installed.

12.03 Party Walls. Whenever any Party Wall, or portion thereof, shall be repaired, replaced or rebuilt, it shall be erected as nearly plumb as possible on the same line provided such line is located exactly on the dividing line of the Townhome and shall be of the same size and the same or similar materials of like quality as the present party wall, and it shall conform in all respects to the laws and ordinances regulating the construction of building in force at that time.

## XIII. USE AND OCCUPANCY RESTRICTIONS

13.01 Restriction to be part of Bylaws and Rules. Except for the rights of the Declarant and Developer set forth herein, Townhomes are hereby restricted to an attached single family residential community. The Use and Occupancy Restrictions contained in the By-laws and Rules and Regulations promulgated thereunder, as amended from time to time, shall be honored by the Owners and Occupants.

## XIV. REMEDIES

14.01 In General. In the event of any default or violation of the provisions of this Declaration or the By-Laws or Rules and Regulations of the Association by any Owner, including without limitation non-payment of assessments or other sums owing to the Association from the Owner, (hereinafter referred to as a "Violation") the Association and Developer, shall have each and all of the rights and remedies which may be provided for in this Declaration or the By-laws, or which may be available at law or in equity.

14.02 Association Self-help. In the event of a Violation, the Board or the Developer or either of their authorized agent(s) shall have the authority to enter upon that part of the Real Estate where such Violation exists and summarily abate, remove and correct such Violation and to do whatever may be necessary for such purpose. All expenses incurred by the Association in connection with enforcing this Declaration shall be charged to and assessed against the Townhome of such violating Owner or Occupant and the Association shall have a lien for all of the same upon the violating Owner's Townhome provided, however, that such lien shall be subordinate to the lien of all Mortgagees. Said actions of the Board or the Developer or either of them or authorized agent(s), shall not constitute a trespass.

14.03 Injunctive Relief. In the event any Violation shall continue for ten (10) days after notice to the Owner or Occupant in writing from the Board, then the Board shall have the power to file

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an action against the Violating Owner and/or Occupant for a judgment or injunction, requiring the Violating Owner and/or Occupant to comply with the provisions of this Declaration, the By-Laws, and the Rules or Regulations then in force, and granting other appropriate relief, including money damages.

14.04 Involuntary Sales. In the event the Association acquires a lien on a Townhome by reason of any Violation, the Board shall have the power to sell the Townhome at a judicial sale, following a foreclosure of such lien in like manner as in the case of foreclosure of a mortgage against real property. The proceeds of any judicial sale shall first be paid to discharge court costs, court reporter charges, title charges, reasonable attorneys' fees and all other expenses of the proceedings and sale, and all such items shall be taxed against the violating Owner in a final judgment. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to the Owner. Upon the confirmation of such sale and the expiration of any applicable redemption periods, the purchaser shall thereupon be entitled to a deed to the Townhome and to immediate possession of the Townhome sold, and may apply to the court for a writ of assistance for the purpose of acquiring such possession. It shall be a condition of any such sale, and the judgment shall so provide that the purchaser shall take the interest in the property sold subject to this Declaration. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorneys' fees and all other expenses of the proceeding and sale, and all damages liquidated or otherwise, together with interest thereon at the Interest Rate until paid, shall be charged to and assessed against such Violating Owner, and shall be added to and deemed part of the Common Expenses owed by that Owner, and the Association shall have a lien for all of the same, as well as for nonpayment of his respective share of the Common Expenses, upon the Townhome; provided, however, that such lien shall be subordinate to the lien of a Mortgagee as provided herein.

14.05 Additional Remedies. In addition to the above remedies, the Board shall have available all the rights and remedies contained in Article IX of the Illinois Code of Civil Procedure (Forcible Entry and Detainer), as amended from time to time, that apply to Associations of Common Interest Communities.

14.06 Costs. The Association shall have the right to receive from the Owner and/or Occupant (if applicable) all reasonable attorneys' fees and costs in enforcing the provisions of this Declaration and the By-Laws and Association Rules and Regulations against the Owner and/or Occupant involved. If an Owner or Occupant files suit against the Board or the Association or the Declarant or the Developer, and does not prevail by being awarded a Final judgment or order against the Board or the Association or the Declarant or the Developer, the Owner or Occupant shall pay the



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Association and the Board and the Declarant and the Developer their reasonable attorney's fees, court costs, and litigation costs incurred to defend the lawsuit.

14.07 Cumulative Rights; No Waiver of Rights. Any and all rights and remedies provided for in this Article may be exercised at any time and from time to time by the Association or Board or the Declarant or the Developer to enforce any of the covenants, conditions or restrictions set forth herein or in the By-laws and Rules or Regulations adopted by the Board or the Association. Failure to exercise a right or remedy shall not be deemed a waiver of such right or remedy.

## XV AMENDMENT

15.01 Amendment by Declarant. Prior to the Turnover Date, the Declarant shall have the authority, without joinder or consent of any other party, to make any amendment to the Declaration (an "Amendment") in order to:

A. induce any lender to make loans for the construction of Townhomes or other improvements on the Real Estate; or

B. induce any governmental or quasi-governmental authority to make, buy, sell, guarantee or insure a mortgage granted by an Owner; or

C. clarify any apparently conflicting provisions of the Declaration and/or correct any errors of a clerical nature; or

D. induce a title insurance company to issue Owner's or mortgagee's title insurance policies for one or more Townhomes; or

E. subject Additional Property to this Declaration pursuant to paragraph 3.05 hereof; or

F. substitute the entity serving as the Developer; or

G. effectuate such other changes to this Declaration that the Declarant deems appropriate, so long as such amendment shall not materially impair the rights of the Owners or the Village.

15.02 Execution of Amendment. In furtherance of the foregoing, a power of attorney coupled with an interest is hereby reserved by the Declarant, acting by and through its duly authorized officers, and the Developer or a designee thereof, and their agents and each of them singly, as attorney-in-fact, to amend the Declaration by any Amendment and execute any instrument necessary to effectuate such Amendments. The execution of each deed, mortgage, trust deed or other instrument with respect to a Townhome and the acceptance thereof shall be deemed a grant of such

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power to each of said attorneys-in-fact, an acknowledgment of and consent to such power, and shall be deemed to reserve to each of said attorneys-in-fact the power to amend the Declaration by any Amendment.

15.03 Amendment by the Association. Subsequent to the Turnover Date, subject to the restrictions on amendments hereof contained in this Declaration, and following the affirmative vote of not less than two-thirds (2/3rds) of the total Voting Members, the Declaration may be changed, modified or rescinded by an instrument in writing, signed by the President of the Association and acknowledged by the Secretary thereof, setting forth such change, modification or rescission; provided at no time while the Declarant is an Owner shall the Association or any Owner have a right to amend this Declaration without the written consent of the Declarant or the Developer.

15.04 Effective upon Recording. Any change, amendment, modification or rescission of the Declaration shall be effective upon Recording.

## XVI. NOTICES

16.01 Notices. Notices provided for in this Declaration or the By-Laws shall be in writing, and, unless otherwise specified herein, shall be addressed as follows:

A. if to the Association, then to the registered agent as reflected on the records of the Secretary of State of the State of Illinois, or if there is no registered agent, then to the Developer;

B. if to an Owner, then to that Owner, as the case may be, at his or her Townhome or the last record address on file with the Secretary of the Association; and

C. if to a Mortgagee, then to that Mortgagee at the address provided to the Association by such Mortgagee for that purpose; provided, however, notwithstanding any provision of this Declaration or the By-Laws, the Association shall not be obligated to give any notice to any Mortgagee unless such Mortgagee has previously requested to receive notices and has notified the Association in accordance herewith of the address to which notices to such Mortgagee should be sent.

D. If to the Developer, then to the registered agent of the Developer, as reflected on the records of the Secretary of State of Illinois.

16.02 Deceased Owner. Notices required to be given to an heir, legatee or personal representative of a deceased Owner may be

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delivered to such party at his or her address appearing in the records of the court wherein the estate of such deceased Owner is being administered.

16.03 Effective Date. Notices addressed as above shall be deemed delivered upon personal delivery or three (3) business days after deposit in a U.S. postal mail box, with proper postage prepaid.

## XVII. DECLARANT/DEVELOPER ASSIGNMENTS AND TURNOVER

17.01 Successors. All references in this Declaration, and in the By-Laws to Declarant or Developer shall include their respective successors and/or assigns from and after the date each of such successors and/or assigns succeed to the interests of Declarant and Developer or either of them as set forth hereinabove, provided:

A. no successor or assign of Declarant or Developer shall be liable for any amount accruing under this Declaration or the By-Laws prior to the date such successor assign succeeds to the interest of Declarant and Developer or either of them, as the case may be; and

B. no successor or assign of Declarant or Developer shall be liable for any act or omission of Declarant or Developer occurring before the date such successor or assign succeeds to the interest of Declarant and Developer or either of them, as the case may be.

17.02 Turnover. Within ten (10) days following written notice by the First Board to Developer of who the duly elected officers of the Association are, the Developer shall deliver to the Secretary of the Association all the funds, books and records of the Association (the "Delivery Date"). Unless written notice is given to the Developer by the First Board particularizing a claim against the Developer or the Association's prior Board(s) within ninety (90) days following the Delivery Date, the Association and each of the Owners, individually, and the Mortgagees: (a) shall be deemed to have approved and ratified all matters pertaining to the operation, management and accounting of the Association by the Developer and all Board(s) prior to the Delivery Date; and (b) shall be deemed to have waived any and all claims against the Declarant, the Developer and prior officers and directors of the Board arising from its operation, management or accounting for the Association prior to the Delivery Date.

## XIII. LAND TRUSTEE AS OWNER

In the event an Owner is a land title holding trust (other than Declarant), under the terms of which powers of management,

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operation and control of the Townhome remain vested in the trust beneficiary or beneficiaries, then the beneficiary or beneficiaries thereunder shall be considered an Owner or Owners for purposes of payment of all obligations, liens, or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration, the By-Laws or the Rules and Regulations of the Association against such Townhome. The amount of any such lien or obligation shall continue to be a charge or lien upon the Townhome and the beneficiary or beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title to such Townhome. Upon written request of the Board, the Land Trustee and/or Owner and/or Occupant shall cause the beneficiary of the land trust to be disclosed to the Board.

## XIX. GENERAL PROVISIONS

19.01 Enforcement. Declarant, the Developer or the Board, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. No covenants, restrictions, conditions, obligations, or provisions contained in the Declaration shall be deemed to have been abrogated or waived by reason of any failure on the part of the Declarant, the Developer or the Board to enforce the same, irrespective of the number of violations or breaches which may occur.

19.02 Construction. The provisions of this Declaration and the By-Laws shall be liberally construed to effectuate its purpose of creating a uniform plan of operation of a residential townhome development.

19.03 Captions. The headings and captions contained herein are inserted for convenient reference only and shall not be deemed to construe or limit the paragraphs and subparagraphs to which they apply.

19.04 Severability. If any portion of any provision or provisions in this Declaration or the By-Laws is found by a court of law to be illegal, invalid, unlawful, void or unenforceable as written, the remainder of this Declaration and the By-Laws shall continue in full force and effect.

19.05 Eminent Domain. In the event any portion of the Real Estate is taken by condemnation or eminent domain proceedings, provisions for withdrawal of the portions so taken may be made by the Board. The Board shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of the Common Area or any part thereof.

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19.06 Perpetuities. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the descendants of George Ryan, now the incumbent Governor of the State of Illinois, who are living on the date hereof.

19.07 Non-Liability of the Association, Declarant, Developer, Directors, Board and Officers. The Association, Declarant and Developer and the directors, Board, officers, and employees thereof, their heirs, executors or administrators, successors or assigns shall not be liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever, except for acts or omissions found by a court to constitute gross negligence, willful misconduct or fraud. The Association shall indemnify and hold harmless each of the Declarant and Developer and the directors, Board, officers, agents and employees thereof, their heirs, executors or administrators, successors and assigns in accordance with the By-Laws.

19.08 Rules and Regulations. The Board may adopt reasonable rules and regulations, including parking regulations, and lease prohibitions or restrictions, governing the use and occupancy of the Townhomes, in accordance with the Bylaws and this Declaration; provided, after the Turnover Date and while the Declarant is an Owner of a Townhome, any change to the rules and regulations shall require the written consent of the Developer or the Declarant prior to becoming effective.

19.09 Board's Determination Binding. In the event of any dispute or disagreement between any Owners relating to the Real Estate, or any questions of interpretation or application of the provisions of this Declaration or the By-Laws, the determination thereof by the Board shall be final and binding on each and all such Owners.

## XX. EXCULPATION OF TRUSTEE

This Declaration is executed by the Declarant not personally but solely as Declarant as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Declarant. It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this Declaration that the Declarant hereby warrants that it possesses full power and authority to execute this Declaration for the sole purpose of subjecting the title holding interest and the trust estate under said Trust to the terms of this Declaration as hereinbefore provided. Provided however, any and all obligations, duties, covenants and agreements of every nature herein set forth by the Declarant as aforesaid, to be kept or performed, are intended to be

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kept, performed and discharged by the beneficiaries under said Trust or their successors, and not by the INTERSTATE BANK, personally; and further, no duty shall rest upon the INTERSTATE BANK, either personally or as such Declarant, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation express or implied, arising under the terms of this Declaration, except where said Declarant is acting pursuant to direction as provided by the terms of said Trust, and after the Declarant has first been supplied with funds required for that purpose. In the event of conflict between the terms of this Article and the remainder of this Declaration on any question of apparent liability or obligation resting upon said Declarant, the exculpatory provisions hereof shall be controlling.

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## EXHIBIT "A"

### REAL ESTATE

D-1, D-2 AND D-3, IN RIDGELAND MANOR PHASE I, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 35 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Addresses:

D-1 PIN: 31-20-303-015-0000  
D-1: 6373 & 6375 W. Patricia Drive, Matteson, IL

D-2 PIN: 31-20-303-016-0000  
D-2: 6361 & 6363 W. Patricia Drive, Matteson, IL

D-3 PIN: 31-20-303-017-0000  
D-3: 6353 & 6355 W. Patricia Drive, Matteson, IL

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## BY-LAWS OF RIDGELAND MANOR EAST TOWNHOME ASSOCIATION

### ARTICLE I NAME OF CORPORATION

1.01 Name. The name of this corporation is the RIDGELAND MANOR EAST TOWNHOME ASSOCIATION.

### ARTICLE II PURPOSE AND POWERS

2.01 Purposes. The purposes of this Association are to perform all the obligations of the Association as set forth in the Declaration, including without limitation, owning, maintaining and administering the Common Area and the facilities and improvements thereon and those portions of the Units as designated therein; to promote the health, safety and welfare, and the common use and enjoyment thereof by its Members; and to exercise all the rights and powers granted the Association in the Declaration, all on a not-for-profit basis, subject to and in accordance with the terms and provisions of the Declaration.

2.02 Powers. The Association shall have and exercise all powers as are now or may hereafter be granted by the Illinois General Not-For-Profit Corporation Act of 1986 (the "Act"), the Declaration and these By-Laws.

2.03 Townhome Declaration. All terms used herein shall have the meanings set forth in the Declaration of Covenants, Conditions, Restrictions and Easements for the Ridgeland Manor East Townhomes ("Declaration").

2.04 Personal Application. All present or future owners and Occupants and their invitees, licensees agents and employees, and any other Person that might use the Real Estate, in any manner, shall be subject to the provisions of the Declaration and these By-Laws. The mere acquisition or rental of a Townhome or the mere act of occupancy of a Townhome will signify that the Declaration and these By-Laws are accepted, ratified and will be complied with.

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## ARTICLE III OFFICES

3.01 Registered Office. The Association shall have and continuously maintain in this state a registered office and a registered agent whose office is identical with such registered office, and may have other offices within the State of Illinois as the Board may from time to time determine.

3.02 Principal Office. The Association's principal office shall be maintained on the Real Estate or at the office of a managing agent engaged by the Association or at such other place as the Board may determine.

## ARTICLE IV

### MEMBERS

4.01 Membership. There shall be one class of membership in the Association, which shall consist of Owners. Members shall not be Voting Members entitled to vote until the first meeting of Members following the Turnover Date. Thereafter, Members shall have one vote for each Townhome they own. When more than one Person owns any Townhome, all such persons shall constitute one member. The vote for such Townhome shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Townhome.

4.02 Voting. There shall be one voting Member per Townhome. Such Voting Member shall be the Owner or one of the group composed of all the Owners of a Townhome, or may be some person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board. Voting by the Member shall be on a one vote per Townhome basis. The Developer shall exercise the voting rights with respect to any Townhome owned by the Declarant or the Developer.

4.03 Initial meeting/annual meeting. The initial meeting of the members of the Association shall be held upon not less than twenty-one (21) days after the Turnover Date, as defined in the Declaration. Thereafter, there shall be an annual meeting of the Members on the first Monday of December following such initial meeting, and on the first Monday of December of each succeeding year thereafter, at 7:30 p.m., or at such other reasonable time or date (not more that thirty (30) days before or after such date) as may be designated by written notice from the Board delivered to the Voting Members.

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4.04 Regular Meetings. Meetings of the Members shall be held at the Real Estate or at such other place, as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of Voting Members of the Association having a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Members at which a quorum is present upon the affirmative vote of Voting Members having a majority of the total votes present at such meeting in person or by proxy. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half ( $\frac{1}{2}$ ) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.05 Special Meetings. Special meetings of the Members may be called at any time for the purpose of considering matters which, by the terms of the Declaration, require the approval of the Voting Members or for any other reasonable purpose. Said meeting shall be called by written notice, and authorized by either the President, a majority of the members of the Board, or by at least 50% of the Voting Members of the Association. Quorum and voting requirements shall be the same as for Regular Meetings, unless otherwise provided herein.

4.06 Notices. Written notice of all annual and special meetings of the Members shall be delivered not less than ten (10) days prior to the date of any such meeting. All notices shall include the time, place and purpose of such meeting. However any Member may waive notice by signing written consent to the convening of a meeting of the Members without the notice required hereunder.

## ARTICLE V BOARD OF MANAGERS

5.01 Board. The Board of Directors is referred to in the Declaration and in these By-laws as the "Board". The direction and administration of the Association shall be vested in the Board. Prior to the Turnover Date and after the organization of the Association under the Act, the Board shall be comprised of three (3) persons who shall be appointed by the Developer, who shall serve such terms as are determined by the Developer until the Turnover Date. After the Turnover Date, the Board shall consist of three (3) persons who shall be elected by the Members; provided, anything to the contrary notwithstanding, at anytime that the Developer or Declarant is an Owner after the Turnover Date, the Developer shall have the right to appoint one of the three (3) members of the Board. After the Turnover Date, each elected member of the Board shall be one of the Owners; provided, however, that in the event an Owner is a corporation, partnership, trust or other

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legal entity other than a natural person or persons, then a designee of any officer or director of such corporation, partner of such partnership, beneficiary of such trust, or manager of such other legal entity, shall be eligible to serve as a member of the Board. Members of the Board shall receive no compensation for their services, but shall be entitled to reimbursement for receipts costs expended or advanced on behalf of the Association.

5.02 Election/Term of Office. At the initial meeting after the Turnover Date, the members of the Association shall elect a First Board. Members of the First Board elected at the initial meeting of Members shall serve until the next annual meeting of the Members, and at each successive annual meeting thereafter, a new Board shall be elected. Any member of the Board may be elected to succeed himself or herself. In all elections for members of the Board, each Voting Member shall be entitled to vote on a cumulative voting basis, and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. The Voting Members of the Association having at least two-thirds (2/3) of the total votes in the Association may from time to time increase the number of persons serving on the Board. In addition, any member of the Board may be removed from office by affirmative vote of not less than two-thirds (2/3) of the Voting Members. Vacancies on the Board, including vacancies due to any increases in the number of persons on the Board or removal of a Board member, shall be filled by election by the Voting Members present at the next annual meeting or a special meeting of the Voting Members called for such purpose.

5.03 Officers. The Board shall annually elect from among its members a **PRESIDENT** who shall preside over both its meetings and those of the Members and who shall be the chief executive officer of the Association and who shall execute all amendments to the Declaration, and these By-laws as provided in such instruments; a **SECRETARY** who shall keep the minutes of all meetings of the Board and of the Members and who shall, in general, perform all the duties incident to the office of Secretary including the mailing and receiving of all notices permitted or required under the Declaration and these By-laws, which are executed by the President as provided above; and a **TREASURER** who shall keep the financial records and books of account; and such additional officers as the Board shall see fit to elect. Any vacancy in any office may be filled by the Board at any regular or special meeting of the Board. Any officer elected may be removed from office by affirmative vote of not less than two-thirds (2/3) of the Board. Thereafter, a successor may be elected by the Board at the same meeting or any subsequent meeting of the Board called for that purpose. The officers shall serve without compensation, but shall be entitled to reimbursement for costs expended or advanced on behalf of the Association.

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5.04 Meetings. After the initial meeting of the First Board, regular meetings of the Board shall be held not less than semi-annually, one of which shall be within ten (10) days following the annual meeting of the members of the Association. Special meetings of the Board shall be held upon a call either by (i) the President or (ii) a majority of the members of the Board. Notice of each regular and special meeting of the Board, setting forth the date, time, place and purpose of the meeting, shall be mailed or delivered to each member of the Board at least forty-eight (48) hours prior to such meeting, unless a waiver of written notice is signed by the person or persons entitled to such notice before the meeting is convened. In addition, each Voting Member of the Association shall be given notice, in the same manner as that provided in Paragraph 4.06 hereof for the semi-annual meetings of the Board, of any meeting of the Board concerning the adoption of the Annual Budget (as hereinafter defined) or any increase or establishment of assessments for Common Expenses. After the Turnover Date, and not before, all meetings of the Board shall be open to any Member except the Board may, at its discretion, close meetings to the extent they involve discussion of threatened or pending litigation involving an Owner and the Board deems that the opening of such meeting would not be in the best interests of the Association. A majority of the total number of members of the Board shall constitute a quorum at any meeting of the Board. Except as otherwise provided in the Declaration or these By-laws, the Board shall act by majority vote of those present at a meeting at which quorum exists.

5.05 Removal. After the Turnover Date, any Board member may be removed from office by affirmative vote of the Voting Members having at least two-thirds (2/3) of the total votes in the Association, at any special meeting called for that purpose. A successor to fill the unexpired term of a Board member so removed may be elected by the members of the Association at the same meeting or any subsequent meeting of the members of the Association called for that purpose.

5.06 Signatures. All agreements, contracts, authorizations for payment of expenditures, deeds, easements, grants and other instruments shall be approved and signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be approved and signed by the President and attested or countersigned by the Secretary of the Association.

5.07 Powers and Duties. The Board shall have the following powers and duties in addition to those provided in the Declaration or elsewhere in these By-laws:

- a) to formulate policies for the administration, management, and operation of the Real Estate;

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b) to adopt administrative Rules and Regulations, with written notice thereof to all Owners, governing the administration, management, maintenance, operation, use, conservation and beautification of the Real Estate and for the health, comfort, safety and general welfare of the Owners, and to amend such Rules and Regulations from time to time, with written notice thereof to all Owners;

c) to provide for any construction, alteration, installation, maintenance, repair, painting and replacement for or upon the Real Estate for which the Board is permitted or responsible to address under the Declaration and By-laws and, for such purposes, authorize entry into any Townhome;

d) to provide for the designation, hiring and removal of employees and other personnel, including attorneys and accountants, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management, and operation of the Real Estate and to delegate any such powers to a Management Agent (and any such employees or other personnel as may be employees of any Management Agent);

e) to estimate the amount of the Annual Budget and to provide the manner of levying assessments and collecting from the Owners their respective shares of such estimated expenses;

f) to pay out of the funds of the Association the following:

(I) Water, waste removal, snow removal, electricity and telephone and other necessary utility services for the Common Area and (if not separately metered or charged) for the Townhomes;

(ii) The services of a Management Agent or any other person or firm employed by the Board;

(iii) Payment for the operation, maintenance, repair and replacement of the Common Area that the Declaration requires or permits the Association to maintain or repair; and

(iv) Common Expenses, as defined in the Declaration.

g) to bid for and purchase any Townhome at a sale pursuant to a judgment of foreclosure of the lien for assessments, or at a sale pursuant to any order or direction of a court, or other involuntary sale, upon the consent or approval of at least two-thirds (2/3) of the Voting Members;

h) to the extent not inconsistent with the Declaration or these By-laws to comply with the instructions of a Majority of

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the Voting Members, as expressed in any resolution duly adopted at any annual or special meeting of the members of the Association; and

I) to cause the Association to merge with other associations which govern other real estate located in the Ridgeland Manor Subdivision on the Additional Property.

j) to exercise all other powers and duties of the Board as referred to in the Declaration or these By-laws or as conferred by Act.

## ARTICLE VI ASSESSMENTS

6.01 Initial Budget. When the First Board elected hereunder takes office, it shall prepare a budget for the period commencing thirty (30) days after said election and ending on December 31 of the year in which said election occurs. Monthly assessment shall be levied against all townhomes subject to assessment during said period as provided in this Article.

6.02 Annual Budget. Or before December 1 of each year following the election of the first Board, the Board shall prepare an annual budget ("Annual Budget") for the Association for the ensuing calendar year which shall include estimated Common Expenses and reasonable amounts as a reserve for repairs to and replacement of the improvements on the Common Area for which the Association is responsible, and for such other contingencies as the Board may deem proper, and shall, on or before December 15, notify each Owner in writing of the amount of such estimate, with reasonable itemization thereof. The budget shall also take into account the estimated net available cash income for the year, if any, that may be received by the Association. On or before January 1 of the ensuing year, each Owner, jointly and severally, shall be personally liable for and obligated to pay the Board or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this Section for that Owner's Townhome. On or before April 15 of each year following the initial meeting, the Board shall supply to all Owners an itemized accounting of actual expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimate provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited to the next monthly installment due under the current year's estimate, until exhausted, and one-third (1/3) of any net shortage shall be added to the installments due in each of the succeeding three (3) months after rendering of the account. Such adjustment shall be allocated among the Townhomes that were subject to assessment during the



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prior year in the proportion that the annual assessment against each Townhome during the year bears to the annual assessment against all the Townhomes during that year.

6.03 Shortfalls. If said annual assessments prove inadequate for any reason, including non-payment of any Owner's assessment, the Board may, subject to the limitations on the use of capital reserves, charge the deficiency against existing reserves, or may levy a special assessment which shall be assessed uniformly against all Townhomes subject to assessment. The Board shall serve notice of such special assessment on all Owners by a statement in writing showing the amount due and reasons therefor, and such special assessment shall become effective with the first monthly installment which is due more than fifteen (15) days after delivery or mailing of such notice of special assessment. All Owners shall be personally liable for and obligated to pay their respective adjusted monthly assessment.

6.04 Capital Reserves. To the extent the Annual Budget includes an amount specifically designated as a capital reserve, each Owner shall, as to each installment of the annual assessment paid by him, be deemed to have made a non-refundable capital contribution to the Association. Such capital contribution paid to the Association shall be segregated and maintained by it in a special capital reserve account to be used solely for making major repairs and replacements to the Common Areas and the improvements thereon which the Association is obligated or permitted to repair and replace in accordance with the provisions of the Declaration and the By-laws, and for the purchase of equipment to be used by the Association in connection with its duties hereunder.

6.05 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Board may levy special assessments for the purpose of defraying, in whole or in part, the cost of constructing or purchasing a specified capital improvement upon or to the Common Area, and for the necessary fixtures and personal property related thereto provided that, unless otherwise provided in the By-laws, any such assessments which in one year exceed \$2,500.00 (in the aggregate for all Owners) shall first be approved by a majority of the Board and thereafter by a majority of the votes cast by Voting Members at a regular or special meeting of Voting Members duly called for that purpose or, in lieu of such member's meeting, by an instrument signed by a majority of the Voting Members. Special assessments levied hereunder shall be due and payable at such time or times and in such manner as shall be fixed by the Board, or, where applicable, as approved by the Members and shall be used only for the specific purpose for which such assessment was levied.

6.06 Notice and Quorum. Notice, quorum and voting requirements shall be as provided in Article IV of these By-laws.

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6.07 No Waiver. The failure or delay of the Board to prepare or serve the Annual Budget or adjusted estimate on any Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the assessments and reserves. In the absence of any Annual Budget or adjusted estimate, the Owner shall continue to pay his monthly installment at the then existing rate established for the previous period until the new annual or adjusted estimate shall have been mailed or delivered.

6.08 No Exception of Liability. Except as otherwise provided herein, no Owner shall be excepted from liability for assessments provided for herein by any act or omission including, without limitation, non-use of the services provided by the Association, the Common Property or abandonment of his Townhome.

6.09 Books and Records. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Common Area, specifying and itemizing the Common Expenses incurred. Such records and vouchers authorizing the payment shall be available for the reasonable inspection by any member of the Association, any representative of a member of the Association, or any Mortgagee. Upon ten (10) days notice to the Management Agent or the Board, any member of the Association shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such member.

6.10 Lien of Assessments: Enforcement. Unpaid assessments shall be a lien on the Townhome to which they relate, as provided in the Declaration, and the Board shall have such other remedies to enforce the payment of unpaid assessments as are provided in the Declaration, as amended from time to time.

## ARTICLE VII

### USE AND OCCUPANCY RESTRICTIONS

7.01 Structure. No building or structure of a temporary character shall be kept by an Owner or Occupant on the Common Area including, without limitation on the generality thereof, any tent, or shed, swimming pool, pet enclosures, flagpoles, basketball backboards, clotheslines.

7.02 Activity. No noxious or offensive activity shall be carried on, in or upon the Common Area or Townhome, nor shall anything be done thereon which may constitute or become an annoyance or nuisance to the Owners. No plants or seeds or other conditions, harboring or breeding infectious plant diseases or noxious insects shall be introduced or suffered to exist upon any part of a Townhome.

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7.03 Refuse. No Occupant or Owner shall accumulate on his Townhome any derelict vehicles, litter, refuse or other unsightly materials. Garbage shall be placed in receptacles and all garbage receptacles shall be properly screened. No equipment, woodpiles or storage piles shall be kept by an Owner or Occupant on the Common Area.

7.04 Vehicles. Trucks, boats, recreational vehicles, trailers or other vehicles (other than automobiles) shall at all times be parked in the garage of the townhome and their repair or maintenance shall not be permitted except within the confines of the garage.

7.05 Fencing. No fencing of any kind, except as approved in writing in advance by the Developer prior to the Turnover Date and by the Board thereafter, shall be erected on the Real Estate.

7.06 Antennae. The operation of "ham" or other amateur radio stations or the erection of any communication antennae, satellite dishes, or similar devices shall not be allowed unless completely screened from view from all streets and approved in writing in advance by the Developer prior to the Turnover Date and by the Board thereafter. No communications discs shall be permitted on any Townhome.

7.07 Obstructions. Each Owner or Occupant shall keep all areas of his Townhome and the Common Area designed or intended for the proper drainage or detention of water, including swale lines and ditches, unobstructed. No crees, plantings, shrubbery, fencing, patios, structures, landscaping treatment or other obstructions shall be planted, placed or allowed to remain in any such areas, and no Owner or Occupant shall alter the rate or direction of flow of water, changing grade, blocking or redirecting swales, ditches or drainage areas or otherwise.

7.08 Pets. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Townhome or part thereof, or in any Townhome erected thereon, except dogs, cats, or other customary and usual household pets, limited to a total of two, kept for other than commercial purposes. Said allowed pets shall be subject to the Rules and Regulations promulgated by the Association from time to time.

7.09 Signs and Commercial Activities. No for rent, for sale, advertising signs, billboards, objects of unsightly appearance or nuisances shall be erected, placed or permitted to remain on any Townhome nor shall any Townhome or portion thereof be used in any way for any purpose which may endanger the health or unreasonably disturb the residents of the townhome development. No commercial activities of any kind whatever shall be conducted in any Townhome or on any portion of the property. The foregoing restrictions shall not apply to: (a) the construction or sales activities and

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signage, of the Developer or its agents during the construction and sales period, or (b) the activities of the Association in the furtherance of its powers and purposes set forth herein or in the Articles of Incorporation, By-Laws and Rules and Regulations, as the same or amendments thereof may be in force from time to time.

7.10 Storage and Outside Townhome. Equipment, woodpiles and storage piles shall not be kept by any Owner or Occupant on the Common Area.

7.11 Garage Doors. All garage doors when not in use must remain closed.

7.12 Clutter. No toys, skate boards, bikes, or other such articles shall be left on the Common Area overnight without approval of the Board.

7.13 Architectural Change. No Owner or Occupant shall make any exterior architectural change or additions to the Common Area without approval of the Board. Owners and Occupants shall not cause or permit anything to be placed on the outside walls of the Building and no sign, awning, canopy or shutter shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior written consent of the Board.

7.14 Drapes and Colors. Drapes on front elevations are to be lined with off-white or beige lining. Carpet colors for all patios are to be one color or approved by the Board. The design and color of all storm doors must be approved by the Board.

7.15 Landscaping. All additional landscaping placed on the Common Area, e.g. flowers, trees, shrubs, must be approved by the Board.

7.16 Lease. Any lease agreement between an Owner and a Lessee shall be in writing and be for a period of not less than one year and shall provide that the terms of such lease are subject to, and such lessee shall comply with, the provisions of the Declaration, the By-laws and Rules and Regulations of the Association and that failure by the lessee to comply with the terms of such documents, Rules and Regulations shall be a default under said lease. The Developer (prior to the Turnover Date) and the Board (at anytime) shall have the right to prohibit leasing by Amendment hereto; provided, such prohibition shall allow the existing leases to be honored for up to one year after such prohibition is implemented and shall provide hardship provisions to accommodate short term leases based on the need of the particular Owner.

7.17 Common Area. The use, maintenance, and operation of the Common Area shall not be obstructed, damaged or interfered with by any Owner or Occupant, nor shall anything be stored in the Common Area without the prior consent of the Board except as hereinafter

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expressly provided. No waste shall be committed in or to the Common Area.

7.18 Increased Risk. Nothing shall be done or kept in, around or about any Townhome or in, around or about the Common Area which might increase the rate of insurance on the Building or Common Area, or the contents thereof, applicable for residential use, without the prior written consent of the Board. No member of the Association shall permit anything to be done or kept in his Townhome or in, around or about the Common Area which will result in the cancellation of insurance on the Building or the contents thereof or Common Area, or which would be in violation of any law.

7.19 Laundry. No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out or exposed on any part of the Common Area.

7.20 Electrical Usage. No Owner or Occupant shall overload the electric wiring in the Building, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories, or equipment to the heating or air conditioning system or plumbing system, without the prior written consent of the Board.

7.21 Access and Marketing by Developer. During the period of construction of the Building(s) on the Real Estate by the Developer, the Developer and its contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress, and egress to the Building(s) and Real Estate as may be required in connection with said construction. Until all of the Townhomes have been sold by the Developer and occupied by the purchasers thereof, or their proper tenants, the Developer may use and show one or more of such unsold or unoccupied Townhomes as a model and/or sales office, and may maintain customary signs in connection therewith. Anything to the contrary notwithstanding, the terms of this paragraph shall not be altered, amended or revoked at any time without the prior written consent of the Developer.

## ARTICLE VIII AMENDMENTS

8.02 Turnover Date. Prior to the Turnover Date, these Bylaws may be amended from time to time by action or approval solely by a majority vote of the members of the Board. After the Turnover Date, these By-Laws may be amended or modified from time to time by action or approval of at least two-thirds (2/3) of the Voting Members present at a meeting of members duly called for that purpose.

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## ARTICLE IX INDEMNIFICATION

### 9.01 General.

A. The Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association), by reason of the fact that he is or was a Board Member, an officer of the Association or a member of any committee appointed pursuant to these By-Laws, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by or imposed on him in connection with such action, suit or proceeding provided said person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

B. The Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Board Member, an officer of the Association or a member of any committee appointed pursuant to these By-Laws, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit provided said person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence, willful misconduct or fraud in the performance of his duty to the Association.

9.02 Success on Merits. To the extent that a Board Member, an officer of the Association or a member of any committee appointed pursuant to these By-Laws has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in this Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including

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attorneys' fees) actually and reasonably incurred by him in connection therewith.

9.03 Determination of Right to Indemnify. Any indemnification under this Article shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Board Member or the officer or the member of such committee is proper in the circumstances because he has met the applicable standard of conduct set forth in this Article. Such determination shall be made (i) by the Board by a majority vote of a quorum consisting of those Directors who were not parties to such action, suit or proceeding, or (ii) if such quorum is not obtainable, or even if obtainable, if a quorum of disinterested Directors so direct, by independent legal counsel in a written opinion, or (iii) by a majority of the Owners.

9.04 Advance Payment. Expenses incurred in defending an action suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in the specific case upon receipt of an undertaking by or on behalf of the Board Member, the officer of the member of such committee to be indemnified to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article.

9.05 Non-Exclusivity. The indemnification provided in this Article shall not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested Board Members or otherwise, both as to action in its official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Board Member, officer or member of such committee, and shall inure to the benefit of the heirs and legal representatives of any such persons.

9.06 Assessment. Cost of Indemnification shall be deemed a Common Expense.

## ARTICLE X

### CONFLICT BETWEEN DECLARATION AND BY-LAWS

10.01 In the event of any conflict between provisions of these By-Laws and a provision of the Declaration, the provision of the Declaration shall control. Any provision required by the Act to be contained in the Articles of Incorporation or Bylaws of the Association and which is instead actually contained in the Declaration shall be deemed incorporated in these Bylaws for purposes of the Act.

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## ARTICLE XI CORPORATE SEAL

11.01 The Association may have a seal in circular form having within its circumference the words: Corporate Seal/Illinois.

## ARTICLE XII FISCAL YEAR

12.01 Unless the Board adopts a resolution to the contrary, the fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

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