



9-13-02

# EXHIBIT

ATTACHED TO

0021006744

DOCUMENT NUMBER

SEE PLAT BOOK



THIS INSTRUMENT WAS PREPARED  
BY AND AFTER RECORDING MAIL TO:

John E. Lovestrand  
PALMISANO & LOVESTRAND  
79 West Monroe Street  
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Chicago, Illinois 60603

MTC # 204 1574

DECLARATION  
OF  
PARTY WALL RIGHTS, EASEMENTS, COVENANTS, CONDITIONS  
AND  
RESTRICTIONS

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THIS DECLARATION OF PARTY WALL RIGHTS, EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS is made this 4<sup>th</sup> day of September, 2002 by AAW CONSTRUCTION, INC., an Illinois corporation, and JCK INVESTMENTS, LTD., an Illinois corporation (hereinafter collectively known as "Owner" and/or "Developer");

WITNESSETH:

WHEREAS, Owner owns the real property described on Exhibit "A" hereto (the "Property"), and intends to declare in this Declaration that the Property will be subject to this Declaration, and Owner intends to divide portions of the Property into Dwelling Parcels on which Townhouses will be erected and create easements which will be used for maintenance, ingress and egress, and other common uses; and

WHEREAS, Owner, as Developer, intends to erect on each Dwelling Parcel a Townhouse, which Townhouses will be constructed as continuous structures with party walls straddling the boundaries between the dwelling sites; and

WHEREAS, the Developer has caused or intends to cause the **DAMEN & CRYSTAL TOWNHOMES ASSOCIATION** (the "Association") to be incorporated under the laws of the State of Illinois as a not-for-profit corporation whose membership shall consist of the Developer and the owner of Dwelling Parcels on those portions of the Property which have been made subject to this Declaration, for the purpose of controlling the common easement areas of those portions of the Property which are made subject to this Declaration, and of administering and enforcing the covenants and restrictions and collecting and dispensing the assessments and charges hereinafter created; and

WHEREAS, the Owner intends to sell and convey said dwelling sites, improved as aforesaid, and desires and intends that the several purchasers, owners and mortgagees thereof, and any and all other persons now or hereafter acquiring any interest therein, shall at all times enjoy the benefit of and shall hold said Dwelling Parcels subject to the rights, easements, burdens, uses and privileges hereinafter set forth.

**NOW, THEREFORE**, the Owner does hereby declare that the following rights, easements, covenants, conditions, restrictions, burdens, uses and privileges shall and do exist at all times hereafter among the several purchasers, owners and mortgagees of the Dwelling Parcels (as hereinafter defined) and that the declarations contained herein shall be binding upon and inure to the benefit of each and every grantee, mortgagee or lessee of each and every Dwelling Parcel on the subject Property.

ARTICLE I  
DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall otherwise require) have the following meaning:

- (a) "Association" means the **DAMEN & CRYSTAL TOWNHOMES ASSOCIATION**.
- (b) "Board of Directors" means the Board of Directors of the Association, as constituted at any time or from time to time.
- (c) "Common Easement Areas" means all those portions of the subject Property designated herein.

- (d) "Dwelling Parcels", "Unit(s)" or "Lot(s)" means all the parcels on the subject Property designated as dwelling parcels by this Declaration and the Survey appended thereto as Exhibit "C", or by any Supplemental Declaration.
- (e) "Unit Owner", "Owner of any Townhouse" or "Owner of Dwelling Parcel(s)" mean each record owner of one or more Dwelling Parcel(s).
- (f) "Property" means the real estate described on Exhibit "A" attached hereto (sometimes referred to as the "subject Property").
- (g) "Owner" or "Declarant" means **AAW CONSTRUCTION, INC.**, an Illinois corporation, and **JCK INVESTMENTS, LTD.**, an Illinois corporation, collectively.
- (h) "Common Expenses" means the proposed or actual expenses affecting the Property, including Reserves, if any, lawfully assessed by the Board which include the expenses of the administration and operation of the Common Easement Areas and any other expenses incurred in conformance with this Declaration including specifically, but not by way of limitation, the maintenance and repair thereof and any and all replacements and additions thereto.
- (i) "Reserves" means those sums paid by Unit Owners which are separately maintained by the Board for purposes specified by the Board or in this Declaration.
- (j) "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.
- (k) "Occupant" means a person or persons, other than a Unit Owner, in possession of a Unit.
- (l) "Majority" or "Majority of the Unit Owners" means the Unit Owners owning more than fifty percent (50%) of the total number of units of Townhouses.
- (m) "Developer" means **AAW CONSTRUCTION, INC.**, an Illinois corporation, and **JCK INVESTMENTS, LTD.**, an Illinois corporation, collectively, their successors and assigns.
- (n) "By-Laws" shall mean the By-Laws of the **DAMEN & CRYSTAL TOWNHOMES ASSOCIATION**, a copy of which is attached hereto as Exhibit "B" and by reference made a part hereof.

ARTICLE II  
DECLARATION

The subject Property is hereby made subject to this Declaration as follows:

**Lots 3, 4 and 5 in Block 1 in the Resubdivision of Lots 1 to 5 inclusive in Block 1 and Lots 1 to 5 inclusive in Block 2 in the Subdivision of 4 acres in the Southeast corner of the Northwest ¼ of Section 6, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.**

ARTICLE III  
PARTY WALLS

Section 1. All dividing walls which straddle any boundary line between Townhouses and Parcels and which stand partly upon one Dwelling Parcel and partly upon another, and all walls which serve two or more Townhouses shall at all times be considered party walls, and each of the owners of Dwelling Parcels upon which any such party wall shall stand shall have the right to use said party wall below and above the surface of the ground and along the whole length of or any part of the length thereof for the support of said Townhouse and for the support of any building or structures constructed to replace the same, and shall have the right to maintain and replace in or on said wall any pipes, ducts or conduits originally located therein or thereon subject to the restrictions hereinafter contained.

Section 2. No Owner of any Townhouse nor any successor in interest to any such Owner shall have the right to extend said party wall in any manner, either in length, height or thickness.

Section 3. Willful, Negligent or Accidental Damage. Should any party wall be damaged or destroyed through the act or acts of any Owner of any Townhouse contiguous thereto, his tenants, agents, servants, guests or members of his family, irrespective of whether such act is willful, negligent or accidental, such Owner shall forthwith proceed to rebuild or repair said party wall to as good a condition as formerly existed without cost to the other adjoining Owner.

Section 4. Repair, Maintenance and Damage by Fire or Other Casualty. Should any party wall be destroyed or damaged by fire or other casualty or be in need of reasonable repair or maintenance, such wall shall be rebuilt, repaired or maintained by the Owners of both Townhouses contiguous thereto within a reasonable time to the end that such wall shall be restored to as good a condition as existed prior to such fire, casualty or need for repair or maintenance with materials comparable to those used in the original wall, and shall conform in all respect to the laws or regulations regarding the construction of buildings in force at the time of such repair or reconstruction, such repair or maintenance to a party wall shall be borne by the Owners of the Townhouse contiguous thereto in proportion to the use made of such party wall and as promptly as is reasonably possible.



Section 5. Arbitration. In the event a disagreement should arise with respect to the repair, reconstruction or maintenance of a party wall, the adjoining Owners shall select an arbitrator, whose decision shall be binding on the said Owners. In the event they are unable to agree on an arbitrator, each such Owner shall select an arbitrator and the two arbitrators so selected shall select a third arbitrator. A determination of the matter by any two of the three arbitrators so selected shall be binding upon all such Owners and parties in possession.

Section 6. Unenforceability of Private Agreements. No private agreement of any adjoining Townhouse Owner shall modify or abrogate any of the provisions contained in this Article III, which shall be binding upon the heirs, administrators, successors, and assigns of the Owners of the Townhouses but no person shall be liable for any act or omission respecting such provisions, except such as took place while such person was an Owner of the said Townhouse.

ARTICLE IV  
MAINTENANCE, DAMAGE OR DESTRUCTION

Section 1. The Townhouse Owners shall solely be responsible for the repair or replacement of any damages or destruction occurring to their individual Townhouse by reason of fire or other casualty, or vandalism, and for any liability regarding injury to others occurring on their dwelling parcel. To that extent each Townhouse Owner shall procure and keep in force a homeowner's insurance policy protecting against such damage, destruction and/or liability.

Section 2. Maintenance - Ordinary Wear and Tear. The Association shall at its sole expense provide exterior maintenance upon each Dwelling Parcel, the Common Easement Areas, and the exteriors of each Townhouse due to ordinary wear and tear as follows: paint, repair and or replacement and care of roofs, gutters, downspouts, exterior building surfaces, concrete stoops and walks and driveways, and all lawn, trees and shrubs. Such exterior maintenance shall not include glass surfaces. The cost of the above shall be part of the Common Expenses.

Section 3. If, due to the act or neglect of a Unit Owner, or of his agent, servant, tenant, family member, invitee, licensee or household pet, damage shall be caused to the Common Easement Areas, or to a Unit or Units owned by others, or maintenance, repairs or replacements are required which would otherwise be a Common Expense, then such Unit Owner shall pay for such damage or such maintenance, repairs and replacements, as may be determined by the Board, to the extent not covered by the Association's insurance.

Section 4. The Board shall also have the authority to and may obtain in the name of the Association a fidelity bond indemnifying the Association, the Board and the Unit Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or the Managing Agent, or of any other person handling the funds of the Association, the Board or the Unit Owners, in such amount as the Board shall deem desirable but not less than 150% of the annual operating expenses of the Association, including Reserves. 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 expression. Such bond shall provide that it may not be canceled for non-payment of any premium or otherwise substantially modified without thirty (30) days prior written notice to all holders of first mortgages of record.

The Board shall notify all named insureds in the event of the cancellation of any insurance obtained pursuant to this Act.

Section 5. Each Townhouse Owner shall be responsible for obtaining his own insurance on the contents of his own Unit and furnishings and personal property therein, and personal property stored elsewhere on the Property. Each Townhouse Owner shall, at his own expense, be responsible for all maintenance, repairs and replacements within his own Townhouse.

Section 6. Each Townhouse Owner hereby waives and releases any and all claims which he may have against any other Owner, the Association, its officers, members of the Board, the Trustee and its beneficiary, the Developer, the manager and Managing Agent of the Property, if any, and their respective employees and agents, for damage to the Common Easement Areas, the Units, or to any personal property located in the Units or Common Easement Areas, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

In the event of any distribution of any insurance proceeds hereunder as a result of substantial damage to, or destruction of any part of the Property, any such distribution shall be made to the Townhouse Owners and their respective first mortgagees, as their interests may appear, and no Townhouse Owner or other party shall be entitled to priority over any institutional holder of any first mortgage of a Townhouse with respect to any such distribution to or with respect to such Townhouse provided that the Townhouse Owner as soon as possible, shall apply any such proceeds to repair or replace damaged portions of the Townhouse with such materials and in such manner as approved by the Association in order that the Dwelling Parcel and Townhouse shall be repaired or replaced in substantially the same condition it was in prior to the damage or destruction.

#### ARTICLE V

#### EASEMENT AND PROPERTY RIGHTS IN THE COMMON EASEMENT AREAS

Section 1. There shall exist a perpetual exclusive easement in and over the Common Easement Areas in favor of the Association for the purpose of maintaining and repairing or replacing those items enumerated in Article IV above, and as shown on the Survey attached hereto as Exhibit "C". Such rights shall be exercised at reasonable hours and on reasonable days.

Section 2. The rights and easements of use and enjoyment created hereby shall be subject to the following:



- (a) The right of the Developer and the Association, in accordance with its Articles and By-Laws, to improve the Common Easement Areas.
- (b) The right of the Association to borrow money for the purpose of improving the Common Easement Areas.
- (c) The right of the Association to make reasonable rules and regulations governing the use of the Common Easement Areas.
- (d) The right of the Owner and the Association to grant easements over the Common Easement Areas to public and private utility companies for the installation and maintenance of electrical and telephone conduit and lines, gas pipes, sewer and water pipes, and other facilities until such time as 90% of the Townhouses have been sold.
- (e) The provisions of Article VI, herein.

ARTICLE VI  
ALTERATIONS, ADDITIONS AND IMPROVEMENTS

Except as hereinafter provided, no alteration of any Common Easement Area or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board. The Board may authorize and charge as a Common Expense, alterations, additions and improvements of the Common Easement Areas as provided in the By-Laws. Any Unit Owner may make alterations, additions or improvements within his Unit without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units and the Common Easement Areas resulting from such alterations, additions and improvements.

ARTICLE VII  
DECORATING

Each Unit Owner, at his own expense, shall furnish and be responsible for all decorating within his own Unit as may be required from time to time, including painting, wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lighting and other furnishings and interior decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings of his Unit, and such Unit Owner shall maintain said interior surfaces in good condition and at his sole expense, as may be required from time to time. Said maintenance and use of interior surfaces shall be subject to the rules and regulations of the Association, but each such Unit Owner shall have the right to decorate such interior surfaces from time to time as he may see fit and at his sole expense. All

disputes between Unit Owners with regard to adjoining Common Easement Areas are to be submitted to the Board, which shall render a final, binding decision. Decorating of the Common Easement Areas (other than interior surfaces within the Units as above provided) and any redecorating of Units, to the extent such redecorating of Units is made necessary by damage to Units caused by maintenance, repair or replacement of the Common Easement Areas by the Association, shall be furnished by the Association as part of the Common Expenses.

ARTICLE VIII  
PARKING

Unit Owner or Unit Occupant vehicles shall be parked only in the garage areas, as depicted on the Survey attached hereto as Exhibit "C", and as set forth in the legal descriptions attached to the deeds of conveyance for each of the Dwelling Parcels. The Common Area outlot, as depicted on the Survey attached hereto as Exhibit "C", and as set forth in the legal description attached to the deed of conveyance for said Common Area outlot from the Developer to the Association, shall be deemed to be a Common Easement Area, as defined herein, to be used for ingress and egress to the garage areas, and each Unit Owner or Unit Occupant shall have mutual and nonexclusive easement rights in, to, through, across and over said Common Area outlot for the purpose of ingress and egress to the said garage areas.

ARTICLE IX  
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Townhouse by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association, both before and after the conveyance of the Common Easement Areas to the Association:

- (I) an amount equal to two periodic assessments at closing of any conveyance for reserve fund;
- (II) periodic assessments or charges, which shall be monthly unless otherwise determined by the Board of Directors; and
- (III) special assessments for capital improvements.

such assessments to be fixed, established and collected from time to time as hereinafter provided. The periodic, special and advance assessments, together with interest thereon and costs of collection thereof as hereinafter provided shall be a charge and a continuing lien upon the Townhouse in respect of which each assessment is made. Each such assessment, together with interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal

obligation of the person who is the Unit Owner of such Townhouse at the time when the assessment becomes due and payable.

Section 2. Periodic and Advance Assessments. The periodic assessments shall be used exclusively to pay for the management, improvement and maintenance of the Common Easement Areas, including but not limited to the payment of insurance thereon, repairs, replacements and additions thereto, and for the maintenance, repair and replacement of those portions of the Townhouses that the Association is required to maintain, repair and replace pursuant to Article IV hereof, except that periodic assessments shall not be used for the cost of construction, reconstruction or replacement of a capital improvement the aggregate cost of which exceed \$10,000.00. The Board of Directors shall fix the length of period applicable to periodic assessments and the amount of the periodic assessments against each Townhouse. The amount of periodic assessment may be fixed in advance for up to 12 calendar months. The aggregate amount of such periodic assessments fixed at any time shall be the amount determined by the Board of Directors to be required during the time for which the assessments are fixed for carrying out the purposes of such assessments, together with any reserves which the Board of Directors determines to be necessary or desirable to provide for anticipated future expenditures for such purposes.

Section 3. Special Assessments for Capital Improvements. In addition to the periodic assessments authorized by Section 2 hereof, the Association may levy in any year a special assessment for the purposes of defraying, in whole or in part, the cost of any construction, reconstruction or replacement of a capital improvement upon the Common Easement Areas, including the necessary fixtures and personal property related thereto, the aggregate cost of which exceeds \$10,000.00, with the assent of two-thirds of the votes of Unit Members who are voting in person or by proxy at a meeting duly called for the purpose, written notice of which shall be sent to all Members at least 30 days in advance and shall set forth the purpose of the meeting.

Section 4. Basis for Assessments. All assessments, periodic, advance and special, shall be levied against Townhouses as hereinafter set forth. Assessments shall be levied against all Townhouses commencing with the first conveyance. It shall be the duty of each Unit Owner, including the Developer, to pay all assessments commencing with said first conveyance. All assessments shall be equal for each Townhouse.

Section 5. Due Dates. The periodic assessments provided for herein shall be due and payable on the first day of each month or other applicable period, or at such other times as the Board of Directors shall determine. The due date of any special assessment under Section 3 hereof shall be fixed in the resolution authorizing such assessment.

Section 6. Duties of the Board of Directors. The Board of Directors shall prepare a roster of the Subject Property and the assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Unit Owner.

Written notice of each assessment shall be sent to every Unit Owner subject thereto. The Association shall upon demand at any time furnish to any Unit Owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect of Non-Payment of Assessment: The Personal Obligation of the Unit Owner; The Lien; Remedies of Association. If any assessment (periodic or special) is not paid when due, then such assessment shall be deemed delinquent and shall, together with interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Townhouse and Dwelling Parcel in respect of which the assessment was levied. The person who is the Unit Owner of each Townhouse and Dwelling Parcel shall have a personal obligation to pay all assessments which become due and payable at any time that such person is such Unit Owner.

If the assessment is not paid within 30 days after the due date, the assessment shall bear interest from the due date at the rate of thirteen percent (13%) per annum and the Association may bring an action for the amount of such assessment against the Unit Owner personally obligated to pay the same, or an action to foreclose the lien against the Townhouse and Dwelling Parcel in respect of which such assessment was levied, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of action. The delinquent interest rate may be changed from time to time by the Board of Directors.

Section 8. Further Rights in the Event Assessments Are not Paid When Due. In the event that any Unit Owner shall be more than ninety (90) days late in the payment of any assessment (monthly or special), the Association shall, in addition to any other remedies contained in this Declaration, have the right to take possession of the Unit Owner's Townhouse pursuant to Part 1 of Article IX of the Illinois Code of Civil Procedure. The Association or its agents shall send a notice to said Unit Owner at the Townhouse address of that Unit Owner informing said Unit Owner that unless said Unit Owner makes payment of all assessments within fifteen days of the date such Notice is sent, the Association shall proceed under Part 1 of Article IX of the Illinois Code of Civil Procedure to take possession of the said Townhouse. Notice shall be effective when sent, if sent certified mail, return receipt requested, with postage prepaid and addressed to the address of the Townhouse. In such event, the Unit Owner shall be responsible for all costs incurred, including reasonable attorney's fees in such legal proceedings.

Section 9. The above remedies stated in Section 8 above of this Article IX shall also be utilized in the event that the Unit Owner has not made a substantial start to repair or replace any damage or destruction to his Townhouse by an insurable casualty for which the Unit Owner is responsible for within thirty (30) days after receipt by Unit Owner of the insurance funds. In addition to the remedied specified herein, the Association shall have the right to effectuate the

necessary repairs if the Unit Owner has not commenced repairs to his Townhouse as provided herein and the Unit Owner shall be liable to reimburse the Association for the costs of the said repairs together with interest thereon at the rate of 13% per annum.

Section 10. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall take effect and be in force when and as provided in this Article IX; provided, however, that encumbrances owned or held by any bank, insurance company, savings and loan association, or other lender shall be subject as to priority after written notice to said encumbrancer of unpaid common expenses only to the lien of all common expenses on the encumbered unit ownership which became due and payable from and after the first day of the month after the date the encumbrancer either takes possession of the unit, accepts a conveyance of any interest in the unit ownership or has a receiver appointed in a suit to foreclose its lien.

ARTICLE X  
LIMITATIONS RESTRICTING USE OF  
DWELLING PARCELS AND COMMON EASEMENT AREAS

Section 1. No Townhouse shall be used for other than a single family residence.

Section 2. No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Subject Property, nor shall any "For Sale" or "For Rent" signs or any window display advertising be maintained or permitted on any part of the Subject Property. The foregoing notwithstanding, except for Townhouses which the Owner does not own, the Developer reserves the right for itself or its agent, to place "For Sale" or "For Rent" or any other signs on any part of the subject Property and to use any such Townhouse for sale or display purposes.

Section 3. There shall be no obstruction of the Common Easement Areas except as specifically provided herein, nor shall anything be stored in the Common Easement Areas without the prior written consent of the Association.

Section 4. No sign, awning, canopy, shutter, radio transmitting antenna, satellite dish or similar appliance or device shall be affixed to or placed upon the exterior walls or roof of any Townhouse, or any part thereof, without the prior written consent of the Association.

Section 5. No animals, reptiles, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Townhouse or in the Common Area, except that dogs, cats or other household pets may be kept in Townhouses, subject to rules and regulations adopted by the Board, provided that they are not kept, bred or maintained for any commercial purpose and provided further that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the subject Property upon three days' written notice from the Association to the Unit Owner of the Townhouse in which such pet is kept. All owners of these



pets shall be solely responsible for the maintenance and cleaning up of any mess created by his or her pet. No unleashed pet shall be allowed upon the Common Areas.

Section 6. No noxious or offensive activity shall be carried on in any Townhouse or the Common Areas nor shall anything be done therein which may be or become any annoyance or nuisance to the Unit Owner or occupants of the other Townhouses.

Section 7. Nothing shall be done in any Townhouse or in, to or on the Common Areas which may impair the structural stability of any Townhouse.

Section 8. Nothing shall be altered or constructed in, or removed from the Common Easement Areas, except upon the written consent of the Association.

Section 9. Anything in this Declaration to the contrary notwithstanding, no building, wall, fence or other structure or improvement shall be erected, painted, decorated, enlarged, modified or maintained upon the Dwelling Parcels, nor shall any exterior addition to or change or alteration therein be made or painted, until the plans and specifications showing the nature, kind, shape, height, color, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors or by an architectural committee composed of three or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty days after said plans and specifications have been submitted to it, approval will not be required, and the provisions of this Section shall be deemed to have been fully complied with. The provisions of this Section 9 shall not be applicable to the Developer or the Owner. No additional landscaping or vegetable gardens shall be maintained by any Unit Owner unless approval by the Association is obtained.

ARTICLE XI  
LEASES OF UNITS

Any Unit Owner shall have a right to lease, or permit a subsequent sublease or assignment of, all (but not less than all) of his Unit upon such terms and conditions as the Unit Owner may deem acceptable, except that no Unit shall be leased, subleased or assigned for a period of less than six (6) months. Any such lease, sublease or assignment shall be in writing. If a Unit Owner (other than the Owner or the Developer) leases, subleases or assigns a Unit, a copy of such lease, sublease or assignment shall be furnished to the Board not later than the date of use and/or occupancy or ten (10) days after execution thereof, whichever occurs first. The lessee, sub-lessee or assignee under each such lease, sublease or assignment shall be bound by and shall be subject to all of the non-monetary obligations of the Unit Owner-lessor under this Declaration and the By-Laws of the Association and each such lease, sublease or assignment shall expressly so provide. The Unit Owner-lessor shall not be relieved thereby from any of said obligations. No



Unit Owner may lease his Unit for hotel or transient purposes. No Unit Owner may lease less than all of his Unit.

ARTICLE XII  
SEPARATE REAL ESTATE TAXES

Real estate taxes shall be separately taxed to each Unit Owner for his Dwelling Parcel. In the event that such taxes for any year are not separately taxed to each Unit Owner, but rather are taxes on the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his assessment.

ARTICLE XIII  
THE ASSOCIATION

Section 1. Membership. The Developer and every person who is a Unit Owner shall be a member of the Association ("Member"), provided that any such person or entity who holds such interest merely as security for the performance of any obligation shall not be a member.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Unit Owners. Class A members shall be entitled to one vote for each Townhouse in which they hold an interest. When more than one person holds such interest, all such persons shall be members, and the vote for such Townhouse shall be exercised as they among themselves determine. The Developer shall be the Class B member.

Class B. The Class B member shall be entitled to one vote for each Townhouse owned by it. Class B membership shall cease on December 31, 2003, or when the Class B member ceases to have 25% of the voting rights of the Association whichever first occurs, after which date the Developer shall become a Class A member and the original Board of Directors shall resign and turn over the Association (in accordance with the terms and conditions of the Association's By-Laws) the books and records of the Association.

Section 3. Board of Directors. The Board of Directors shall be elected by the Members in accordance with the Articles of Incorporation and By-Laws of the Association, subject, however, to the right of the Developer to designate those persons who shall act as Directors prior to the first annual meeting of the Association. The Board of Directors shall direct and administer the Common Areas in accordance with the terms and provisions of this Declaration and the Articles of Incorporation and By-Laws of the Association.

Section 4. Board Liability. The Directors from time constituting the Board of Directors of the Association shall not be liable to the Members for any mistake of judgment or for any act or omission to act committed in good faith as such Directors.

Section 5. Governing Law. In all other respects, the Association, its Directors, Officers and Members shall be governed by the Illinois General Not-For-Profit Corporation Act.

ARTICLE XIV  
ENCROACHMENTS

If any of the Common Easement Areas encroach upon any Townhouse situated on the Property, or if any Townhouse on the Property encroaches upon any of the Common Easement Areas, there shall be deemed to be mutual easements in favor of the respective Unit Owners of any such Townhouse and the Unit Owners of the Common Easement Areas to the extent of the encroachments so long as the same shall exist.

ARTICLE XV  
GENERAL PROVISIONS

Section 1. Duration: Amendment. The easements, covenants and restrictions in this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Owner of any Townhouse subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The easements, covenants and restrictions in this Declaration may be amended by an instrument signed by Members who have not less than two-thirds of the votes in the Association agreeing to change said Party Wall Rights, Easements, Covenants, Conditions and Restrictions in whole or in part, which amendment shall be effective 3 months after it has been recorded, provided that written notice of the proposed amendment is sent to every member at least 30 days in advance of any action taken.

Section 2. Changes or Modifications by the Owner. Until the first annual meeting of Unit Owners is called, the Owner, or its successors or assigns, shall have the right from time to time to change or modify this Declaration, which change or modification shall be effective upon the recording thereof; provided, however, that such right shall only be exercised (I) to bring the Declaration into compliance with the requirements of FHLMC, FNMA, HUD or VA, or (II) to correct clerical or typographical errors in the Declaration. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Owner to make any change or modification as authorized hereunder on behalf of each Unit Owner as attorney-in-fact for such Unit Owner. Each deed, mortgage, trust deed, other evidence of obligation or other

instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Owner as aforesaid.

Section 3. Notices. Any notices required to be sent any Member or Unit Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, post paid, to the last known address of the person who appears as Member or Unit Owner on the records of the Association at the time of such mailing.

Section 4. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants and failure by the Association or any Unit Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Nothing to the contrary withstanding, the City of Chicago is hereby irrevocably authorized, granted and empowered to enforce the covenants and conditions herein contained in law or in equity against the Association, Owner, Developer or any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and failure by the City of Chicago to enforce any covenant or condition herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 5. Title in Trust. In the event title to any Townhouse is conveyed to a land title holding trustee pursuant to a trust agreement which provides that all powers of management, operation and control of such Townhouse remain vested in the beneficiary or beneficiaries of such trust, then the beneficiary or beneficiaries of such trust shall be the Member with respect to such Townhouse and shall be responsible for payment of the assessments provided for in this Declaration, and such land title holding trustee shall not be personally liable for payment of any such assessment. The amount of any assessment shall continue to be a charge or lien upon the Townhouse and beneficiary or beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Townhouse.

Section 6. Severability. The invalidity of any of the provisions hereof shall not affect the validity of any other provisions hereof.

The change, modifications or rescission, whether accomplished under the provisions of either Section 1 or Section 2 of this Article XV, shall be effective upon recording of such instruments; provided however, that no provisions in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of this Act.

# UNOFFICIAL COPY

0021006744

IN WITNESS WHEREOF, **AAW CONSTRUCTION, INC.**, an Illinois corporation, and **JCK INVESTMENTS, LTD.**, an Illinois corporation, has caused their names to be signed in these presents by their respective Presidents this 4<sup>th</sup> day of September, 2002.

**AAW CONSTRUCTION, INC.**, an Illinois corporation

BY: X [Signature]  
Its President

**JCK INVESTMENTS, LTD.**, an Illinois corporation

BY: X [Signature]  
Its President

STATE OF ILLINOIS )  
                          ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that the above named Presidents of **AAW CONSTRUCTION, INC.**, and **JCK INVESTMENTS, LTD.**, an Illinois corporation, collectively as Declarant, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Presidents, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary acts and as the free and voluntary acts of their respective corporations for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 4<sup>th</sup> day of September, 2002.

OFFICIAL SEAL  
**IVONA KARBOWSKI**  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 7-23-2005

[Signature]  
NOTARY PUBLIC

**UNOFFICIAL COPY**

0021006744

**CONSENT OF MORTGAGEE**

MIDWEST BANK & TRUST COMPANY, holder of a Mortgage on the property, dated November 17, 2000, as Document No. 00921044, and hereby consents to the Declaration of Party Wall Rights, Easements, Covenants, Conditions and Restrictions and agrees that said Mortgage is subject to the provisions of said Declaration.

IN WITNESS WHEREOF, the said MIDWEST BANK & TRUST COMPANY, has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois, on this 11<sup>th</sup> day of September, 2002.

MIDWEST BANK & TRUST COMPANY

BY: [Signature]

Its: VICE PRESIDENT

ATTEST:

[Signature: Charles W. Kolberg]  
Its: VICE PRESIDENT

STATE OF ILLINOIS )  
                                  ) ss  
COUNTY OF COOK )

The undersigned, a Notary Public in and for said County and State, do hereby certify that KEVIN MYERS and CHARLES KIMBERG, and \_\_\_\_\_, respectively, of MIDWEST BANK & TRUST COMPANY, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such VICE PRESIDENT and VICE PRESIDENT appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 11<sup>th</sup> day of September, 2002.

[Signature: Dalila Roque]  
NOTARY PUBLIC

My Commission Expires: 12/11/02



EXHIBIT "A"

**LEGAL DESCRIPTION OF THE DAMEN & CRYSTAL TOWNHOMES**

**Lots 3, 4 and 5 in Block 1 in the Resubdivision of Lots 1 to 5 inclusive in Block 1 and Lots 1 to 5 inclusive in Block 2 in the Subdivision of 4 acres in the Southeast corner of the Northwest  $\frac{1}{4}$  of Section 6, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.**

**PIN's: 17-06-127-041-0000  
17-06-127-042-0000  
17-06-127-043-0000**



EXHIBIT "B"

**BYLAWS OF DAMEN & CRYSTAL TOWNHOMES ASSOCIATION**

ARTICLE I

Purposes and Powers

The Association shall be responsible for the general management and supervision of the Property and the ownership of the Common Area thereof and shall have all the powers to perform, and shall be responsible to perform, all of the obligations provided in the Declaration. Further, the Association shall have all powers now or hereafter granted by the General Not For Profit Corporation Act of the State of Illinois which shall be consistent with the purposes specified herein and in the Declaration.

ARTICLE II

Offices

2.01. Registered Office. The Association shall have and continuously maintain in this State a Registered Office and a Registered Agent whose office shall be identical with such Registered Office. The Association may have other offices within or without the State of Illinois as the Board of Directors may from time to time determine.

2.02. Principal Office. The principal office of the Association shall be maintained in Chicago, Illinois.

ARTICLE III

Membership

3.01. Voting Members. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to an assessment by the Association. Ownership of such Lot shall be the sole qualification of membership. Nothing herein contained shall be interpreted to exclude Declarant from membership while it or its successors in interest, if any, owns one or more Lots. Voting rights with regard to each Member are set forth in Section 3.02 hereof.

3.02. Classes of Membership. The Association shall have two classes of voting membership:

Class A. Class A members, shall be all Unit Owners. Class A members shall be entitled to one vote for each Townhouse in which they hold an interest. When more than one

person holds such interest, all such persons shall be members, and the vote for such Townhouse shall be exercised as they among themselves determine. The Declarant shall be the Class B member.

Class B. The Class B member shall be entitled to one vote for each Townhouse owned by it. Class B membership shall cease on December 31, 2002, or when the Class B member ceases to have 25% of the voting rights of the Association whichever first occurs, after which date the Declarant shall become a Class A member and the original Board of Directors shall resign and turn over the Association (in accordance with the terms and conditions of the Association's By-Laws) the books and records of the Association.

3.03. Meetings.

- a) Quorum Procedure. Meetings of the Members shall be held at the principal office of the Association or at such other place in Cook County, Illinois as may be designated in any notice of a meeting. The presence at any meeting, in person or by proxy, of a majority of the total votes determined pursuant to Section 3.02 above 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 the Members having a majority of the total votes present at such meeting. Any Member in writing may waive notice of a meeting, or consent to any action of the Association without a meeting.
- b) Initial and Annual Meeting. The initial meeting of the Members shall be held at such time as may be designated upon twenty-one (21) days' written notice given by the Declarant or its beneficiary, provided that such initial meeting shall be held no later than three (3) years from the date the Declaration was recorded or sixty (60) days after the conveyance by the Developer of 75% of the Units, whichever is earlier. Thereafter, there shall be an annual meeting of the Members on the first Tuesday of October of each succeeding year, at 7:30 p.m. If the date for the annual meeting of Members is a legal holiday, the meeting will be held at the same hour on the first day next succeeding such date which is not a legal holiday.
- c) 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 or these By-Laws, require the approval of all or some of the Members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by a majority of the Board or by the Members having forty (40%) percent of the total votes, and delivered not less than thirty (30) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

3.04. Proxies. At any meeting of Members, a Member entitled to vote may either vote in person or by proxy executed in writing by a Member or by his duly authorized attorney-in-fact.

No proxy shall be valid after eleven months from the date of its execution unless otherwise provided in the proxy.

ARTICLE IV  
Board of Directors

4.01. Board of Directors. The direction and administration of the Property in accordance with the provisions of the Declaration shall be vested in the Board of Directors, consisting of three (3) persons who shall be elected in the manner hereinafter provided, including the first Board of Directors appointed by the Declarant (or its beneficiaries or designee). The Members having at least two-thirds (2/3) of the total votes may from time to time change the number and term of the Office of the Board members at any annual meeting, provided that such number shall not be less than three and that the terms of at least one-third (1/3) of the persons on the Board shall expire annually. Each member of the Board, with the exception of the Board members initially appointed by the Declarant (or its beneficiaries or designee) shall be one of the Owners (including the Declarant); provided, however, that in the event an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any director or officer of such corporation, partner of such partnership, individual trustee or beneficiary of such trust, or manager of such legal entity, shall be eligible to serve as a member of the Board and provided further that in the event a member of the Board has entered into a contract to sell his Townhouse Unit and vacates the Townhouse Unit prior to the consummation of that transaction, such member shall no longer be eligible to serve on the Board and his term of office shall be deemed terminated.

4.02. Determination of Board to be Binding. All matters of dispute or disagreement between Owners or with respect to interpretation or application of the provisions of the Declaration or these By-Laws shall be determined by the Board as hereinafter provided, which determination shall be final and binding on the Association and on all Owners.

4.03. Election of Board Members. At the initial meeting of the Members and at all subsequent annual meetings of the Members there shall be elected a Board of Directors.

In all elections for members of the Board of Directors, each 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 initial Board of Directors designated by the Declarant pursuant to Section 4.01 hereof shall serve for a period commencing on the date the Declaration is executed and ending upon the qualification of the directors elected at the initial meeting of Members as provided in Section 3.03 (b) hereof. Members of the Board elected at the initial meeting shall serve until the first annual meeting. Three (3) Board Members shall be elected at the annual meeting. The two (2) persons receiving the highest number of votes at the first annual meeting shall be elected to the Board for a term of two (2) years and the person receiving the next highest number of votes shall be elected to the Board for a term of one (1) year. In the event of a tie vote, the members of the Board shall determine which members shall have the two (2) year terms and which members shall have the one (1) year terms. Upon the

expiration of terms of office of the Board members so elected at the initial meeting and thereafter, successors shall be elected for a term of two (2) years each. Notwithstanding the aforesaid election procedure the Declarant or its designee or beneficiaries may appoint a Board which shall have the same powers and authority given the Board generally, as provided hereinafter, and such appointed Board shall function until such time as the initial meeting of the Members is held.

4.04. Compensation. Members of the Board shall receive no compensation for their services, unless expressly allowed by the Board at the direction of the Members having two-thirds (2/3) of the total votes. However, any director may be reimbursed for reasonable expenses incurred in the performance of his duties.

4.05. Vacancies in Board. Vacancies in the Board, other than as a result of removal pursuant to Paragraph 4.07 hereof, including vacancies due to any increase in the number of persons on the Board, shall be filled by the remaining members of the Board or by the Members present at the next annual meeting or at a special meeting of the Members called for such purpose.

4.06. Election of Officers. The Board shall 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 Board and Association, a Secretary who will keep the minutes of all meetings of the Members and of the Board who shall, in general, perform all the duties incident to the office of Secretary, and a Treasurer to keep the financial records and books of account, and such additional officers as the Board shall see fit to elect. All officers shall be elected at each annual meeting of the Board and shall hold office at the pleasure of the Board.

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

4.08. Meeting of Board. The initial meeting of the Board shall be held immediately following the initial meeting of the members and at the same place. At such meeting the Board shall elect its officers to serve until the first annual meeting of the Board which shall be held immediately following the first annual meeting of the Members and at the same place. All subsequent annual meetings of the Board shall be held without other notice than the By-Laws provided for herein and immediately after, and at the same place as, the annual meeting of Members. Special meetings of the Board shall be held upon call by the President or by a majority of the Board on not less than forty-eight (48) hours' notice in writing to each member, delivered personally or by mail or telegram. Any member may in writing waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action of the Board without a meeting. A majority of the number of Board members shall constitute a quorum for the transaction of business. Unless otherwise expressly provided herein, any action may be taken by the Board upon the affirmative vote of those present at its meetings when a quorum is present.

4.09. Execution of Investments. All agreements, contracts, deeds, leases, vouchers for payment of expenditures, and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the President and countersigned by the Secretary.

ARTICLE V  
Powers of the Board

5.01. General Powers of the Board. Without limiting the general powers which may be provided by law, the Declaration or these By-Laws, the Board shall have the following general powers and duties:

- a) to elect the officers of the Association as hereinabove provided;
- b) to administer the affairs of the Association and the Property;
- c) subject to Section 5.04(b) below, to engage the services of a manager or managing agent who shall manage and operate the Property and the Common Area thereof;
- d) to formulate policies for the Administration, management and operation of the Property, and the Common Area thereof;
- e) to adopt administrative rules and regulations governing the administration, management, operation and use of the Property of the Common Area and Limited Common Area and to amend such rules and regulations from time to time;
- f) to provide for the maintenance, repair and replacement of the Common Area and the exterior portions of the Townhouse Units and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or managing agent;
- g) to provide for the designation, hiring and removal of employees and other personnel, including accountants and legal counsel, 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 Common Area and the exterior portions of the Townhouse Units and to delegate any such powers to the manager or managing agent (and any such employees or other personnel as may be the employees of the managing agent);
- h) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Owners of such lots which have been occupied for residential purposes, their respective shares of such estimated expenses, as hereinafter provided;



- i) to dedicate or transfer all or any part of the Common Area or Limited Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of Class B membership, if any, has been recorded, agreeing to such dedication or transfer. In the event Class B membership has ceased, then two-thirds (2/3) of the votes to the Class A membership shall be required to make such dedication or transfer effective;
- j) to mortgage or sell the Common Area or any portion for such purposes and subject to such conditions as may be agreed to by the Members. No such mortgage or sale shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such mortgage or sale. In the event Class B membership has ceased, then two-thirds (2/3) of the votes to the Class A membership shall be required to make such mortgage or sale effective;
- k) to exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Members by the Articles of Incorporation, the Declaration or these By-Laws.

5.02. Capital Additions and Improvements. The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the maintenance fund any structural alterations, capital additions or capital improvements to the Common Area (other than for purposes of replacing or restoring portions of the Common Area, subject to all the provisions of the Declaration) or to those portions of the Townhouse Units as set forth in Article IX, Section 2 of the Declaration having a total cost in excess of Ten Thousand Dollars (\$10,000.00) without in each case the prior approval of the members holding two-thirds (2/3) of the total votes.

5.03. Tax Relief. In connection with the Common Area, the Board shall have the power to seek relief from or in connection with the assessment or levy of any real property taxes, special assessments and any other special taxes or charges of the State of Illinois or any political subdivision thereof, or any other lawful taxing or assessing body, which are authorized to be assessed and levied on real property and to charge all expenses incurred in connection therewith to the maintenance fund.

5.04. Rules and Regulations; Management.

(a) Rules. The Board may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and Occupants. Written notice of such rules and regulations shall be given to all Owners and Occupants, and the entire Property shall at all times be maintained and subject to such rules and regulations.



(b) Management. The Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board. Any management fees incurred pursuant to this Section 5.04(b) shall be paid from the assessments collected pursuant to Article VI hereof.

(c) Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Owners or any of them.

5.05. Liability of the Board of Directors. The members of the Board and the officers of the Association shall not be personally liable to the Owners or others for any mistake of judgment or for any acts or omissions made in good faith by such officers or Board members. The Owners shall indemnify and hold harmless each of the members of the Board and each of the officers against all contractual liability to others arising out of contracts made by the Board or officers on behalf of the Owners unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration. The liability of any Owner arising out of any such contract made by the Board or officers or out of the aforesaid indemnity in favor of the members of the Board or officers, to the extent not covered by insurance, shall be limited to his proportionate share of the total liability thereunder.

ARTICLE VI  
Assessment - Maintenance Fund

6.01. Preparation of Estimated Budget. Each year on or before December 1, the Board will estimate the total amount necessary to pay the cost of wages, materials, taxes, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services authorized by the Board, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, and shall, on or before December 15, notify each Owner in writing as to the amount of such estimate ("Estimated Cash Requirement"), with reasonable itemization thereof. The Estimated Cash Requirement shall be assessed equally among all of the Owners as provided in Article IX of the Declaration. On or before January 1 of the ensuing calendar year, and the first of each and every month of said year, each Owner shall be obligated to pay to the Board, or as it may direct, one twelfth (1/12) of the assessment made pursuant to this Section 6.01. On or before the date of the Annual Meeting of each calendar year, the Board shall supply to all Owners an itemized accounting of the maintenance expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected from the Owners pursuant to assessments made during each year (including amounts collected from the Declarant) and showing the net amount over or short of the actual expenditures, plus reserves. The Board shall upon demand at any time furnish a certificate in writing signed by an officer or agent of the Association, setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein.

6.02. Reserves.

(a) The Board shall build up and maintain a reasonable reserve for authorized capital expenditures, contingencies and replacements not originally included in the annual estimate. The amount determined by the Board to be necessary to maintain a reasonable reserve shall be included in the estimated cash requirement and shall be a part of the monthly assessment pursuant to Section 6.01.

(b) Special Assessments for Capital Improvements. In addition to the periodic assessments authorized by Subsection (a) hereof, the Board may levy in any year a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or replacement of a capital improvement upon the Common Easement Areas, including the necessary fixtures and personal property related thereto, the aggregate cost of which exceeds \$10,000.00, with the assent of two-thirds of the votes of Owners who are voting in person or by proxy at a meeting duly called for the purpose, written notice of which shall be sent to all Members at least 30 days in advance and shall set forth the purpose of the meeting.

(c) Initial Deposits. At the time of closing of the sale of each Lot by the Declarant, the Unit Owner shall pay (in addition to the first monthly assessment) to the manager or managing agent, or as otherwise directed by the Board, an amount equal to two times the first full monthly assessment for such Unit Owner, which amount shall be added to the reserve. In the event, however, that the Board determines that there exists a surplus in the reserve, the Board shall have the authority to transfer such funds to the operating account to fund any deficit in said account.

6.03. Budget for First Year. When the first Board elected hereunder (or appointed by the Declarant or its beneficiaries) takes office, it shall determine the Estimated Cash Requirement, as hereinabove defined, for the period commencing on the first day of the month following the conveyance of the first Lot and ending on December 31 of the calendar year following said conveyance. The initial Estimated Cash Requirement shall be divided among the remaining monthly installments of such calendar year and assessed equally to all Owners, other than the Declarant.

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

6.05. 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 maintenance and repair expenses of the Common Area and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing at such reasonable time or times during normal business hours as may be requested by the Owner or his

representative. Upon ten (10) days' notice to the Board, any Owner shall be furnished a statement of his account, setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

6.06. Status of Collected Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held in trust for the benefit, use and account of all the Owners, other than the credit of the Association in such banks, trust companies or other depositories as the Board may select.

6.07. Remedies for Failure to Pay Assessments. Any assessment which is not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of thirteen (13%) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, costs and fees as above provided, shall be and become a lien or charge against the Lot of the Owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against the real estate. Unless otherwise provided in the Declaration, the members of the Board and their successors in office, acting on behalf of the other Owners, shall have the power to bid in the interest so foreclosed at foreclosure sale, and then acquire and hold, lease, mortgage and convey the same. Any court shall be authorized to restrain the defaulting Owner from reacquiring his interest at such foreclosure sale. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed on the Lots provided, however, that such prior recorded mortgage shall be subject to the lien of all unpaid assessments with respect to such Lot which became due and payable subsequent to six months prior to the date the holder of said mortgage takes possession of the Lot, accepts a conveyance of any interest in the Lot or has a receiver appointed in a suit to foreclose his lien.

6.08. Forcible Entry and Detainer. (a) In addition to the rights and remedies set forth in Section 6.07, in the event that any Unit Owner shall be more than ninety (90) days late in the payment of any assessment (monthly or special), the Association shall, in addition to any other remedies contained in the Declaration, have the right to take possession of the Unit Owner's Townhouse pursuant to Part 1 of Article IX of the Illinois Code of Civil Procedure. The Association or its agents shall send a notice to said Unit Owner at the townhouse address of that Unit Owner informing said Unit Owner that unless said Unit Owner makes payment of all assessments within fifteen days of the date such Notice is sent, the Association shall proceed under Part 1 of Article IX of the Illinois Code of Civil Procedure to take possession of the said Townhouse. Notice shall be effective when sent, if sent certified mail, return receipt requested, with postage prepaid and addressed to the address of the Townhouse. In such event, the Unit Owner shall be responsible for all costs incurred, including reasonable attorney's fees in such legal proceedings.

(b) The above remedies stated in Subsection (a) above of this Section 6.08 shall also be utilized in the event that the Unit Owner has not made a substantial start to repair or replace any damage or destruction to his Townhouse by an insurable casualty for which the Unit Owner is responsible for within thirty (30) days after receipt by Unit Owner of the insurance funds. In addition to the remedies specified herein, the Association shall have the right to effectuate the necessary repairs if the Unit Owner has not commenced repairs to his Townhouse as provided herein and the Unit Owner shall be liable to reimburse the Association for the costs of the said repairs together with interest thereon at the rate of thirteen (13%) percent per annum.

ARTICLE VII

Covenants and Restrictions as to Use and Occupancy

All Owners shall maintain, occupy and use their Townhouse Units and the Common Area only in accordance with the terms of the Declaration and any additional rules and regulations adopted by the Board or by the Members.

The Board shall have full authority to enforce such rules and regulations by taking all action as may be necessary.

ARTICLE VIII

Committees

8.01. Board Committees. The Board, by resolution adopted by a majority of the directors in office, may designate one (1) or more committees, each of which shall consist of one (1) or more directors; said committees, to the extent consistent with law and as provided in said resolution, shall have and exercise the authority of the Board in the management of the Association; but the designation of such committees and the delegation thereof of authority shall not operate to relieve the Board, or any individual director, of any responsibility imposed upon it or him by law.

8.02. Special Committees. Other committees not having and exercising the authority of the Board in the management of the Association may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be Members, and the President of the Association shall appoint the members thereof. Any member thereof may be removed whenever in their judgment the best interests of the Association shall be served by such removal.

8.03. Term. Each member of the committee shall continue as such until the next Annual Meeting of the Board and until his successor is appointed and shall have qualified unless the committee shall be sooner terminated, or unless such member shall cease to qualify as a member thereof.



8.04. Chairman. One (1) member of each committee shall be appointed chairman.

8.05. Vacancies. Vacancies in the membership of any committee may be filled by appointment made in the same manner as provided in the case of the original appointments.

8.06. Quorum. Unless otherwise provided in the resolution of the Board designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

8.07. Rules. Each committee may adopt rules for its own government not inconsistent with these bylaws or with rules adopted by the Board.

ARTICLE IX  
Interim Procedure

Until the Initial Meeting of the Members, the Declarant (or its beneficiaries or designee) may appoint the Board which shall have the same powers and authority as given to the Board generally.

ARTICLE X  
Amendments

These By-Laws may be amended or modified from time to time by action or approval of the Members entitled to cast three-fourths (3/4) of the total votes computed as provided in Section 3.02. Such amendments shall be recorded in the Office of the Recorder of Deeds of Cook County, Illinois.

ARTICLE XI  
Interpretation

In the case of any conflict between the Articles of Incorporation of the Association and these By-Laws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall Control.

ARTICLE XII  
Definition of Terms

The terms used in these By-Laws shall have the same definition set forth in the Declaration to which these By-Laws are attached to the extent such terms are defined therein.