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**SPECIAL AMENDMENT TO DECLARATION OF EASEMENTS,
RESTRICTIONS, AND COVENANTS FOR ROSSES POINTE TOWNHOMES**

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LEGAL DESCRIPTION

LOT 11 IN BLOCK 20 ALL IN FREDERICK BARTLETT'S CHICAGO HIGHLANDS
IN THE NORTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 19, TOWNSHIP 38
NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,
ILLINOIS

PROPERTY ADDRESS: 6445-55 S. Natchez, 6448-6458 W. 65th St., 6436-6446 W. 65th St.,
6424 W. 65th St., 6412-6422 W. 65th St., 6417-6427 W. 64th Pl., 6429-6437 W. 64th Pl., 6445-
6459 W. 64th Pl., Chicago, Illinois

PIN NOS: 19-19-215-001-0000, 19-19-215-002-0000, 19-19-215-003-0000, 19-19-215-004-
0000, 19-19-215-005-0000, 19-19-215-006-0000, 19-19-215-007-0000 AND 19-19-215-008-
0000

This document was prepared by: John A. Morrissey PO Box 456 Orland Park, IL 60462

PLEASE MAIL TO: JOHN A. MORRISSEY, PO BOX 456, ORLAND PARK, IL 60462

BOX 333-CT

THIS SPECIAL AMENDMENT TO THE DECLARATION (the "Declaration") is made as of the 18th day of December, STATE BANK OF COUNTRYSIDE AS TRUSTEE UNDER TRUST AGREEMENT 01-2357, DATED NOVEMBER 20, 2001 (hereinafter "DECLARANT").

WHEREAS, the Declarant is the titleholder in fee simple to certain Property legally described on Exhibit A attached hereto in the City of Chicago, County of Cook and State of Illinois; and

WHEREAS, the Declarant desires to provide for the preservation of the value and the harmonious, beneficial, and proper use of the Property and to this end the Declarant desires to subject the Property to the rights, easements, covenants, restrictions, charges, and liens hereinafter set forth; and

WHEREAS, it is intended that the Property be developed by Stone Park Development II, LLC (hereinafter "Developer") with the construction of attached single family homes ("Townhouses") which will be conveyed in fee simple to ultimate users and purchasers of the same, and with private sidewalks and driveways, the title to which will be conveyed to a Homeowners' Association (as hereinafter defined) which will be a not-for-profit corporation of the State of Illinois, and the organization will be responsible for maintenance of the sidewalks and driveways, and any privately owned utilities that service more than one Townhouse on the Property; and

WHEREAS, the Declarant intends that the several owners of the Property, their successors and assigns, and their mortgagees, guests, and invitees shall at all times enjoy the benefit of, and that the several owners of and all persons hereafter acquiring an interest in the Property hold their interests subject to the terms of this Declaration, all of which are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of such Property; and

WHEREAS, a Declaration was previously recorded as Document 0021228215 that was incomplete and inaccurate in some respects.

NOW, THEREFORE, the Declarant by way of this Special Amendment to the Declaration previously recorded, hereby declares that the Property shall be held, conveyed, occupied, and encumbered subject to the rights, easements, covenants, restrictions, charges, and liens hereinafter set forth, each and all of which shall, with respect to the Property, attach to and constitute covenants running with the land. To the extent the original Declaration conflicts with the Special Amendment the Special Amendment shall control. The Declarant further declares that the Property shall be held, conveyed, occupied, and encumbered subject to the rights, easements, covenants, restrictions, charges, and liens hereinafter set forth, each and all of which shall, with respect to the Property, attach to and constitute covenants running with the land.

ARTICLE I
Definitions

The following terms shall have the following meanings:

- 1.1 Alteration. Any change in the exterior appearance of any Improvement, landscaping or in the grading or drainage pattern of any Parcel.
- 1.2 Association. Rosses Pointe Townhouse Association, an Illinois not-for-profit corporation, and its successors and assigns. Any references to the Articles of Incorporation in this Declaration shall refer to the Articles of Incorporation of the Association.
- 1.3 Board. The Board of Directors of the Association as constituted at any time or from time to time, in accordance with the applicable provisions of Paragraph VII.
- 1.4 By-Laws. The By-Laws of the Association, as they may be amended pursuant thereto.
- 1.5 Common Area. That portion of the Property not conveyed as Parcels to individual Parcel Owners and legally described in Exhibit B attached hereto.
- 1.6 Townhouse. Residential housing unit (including attached garage) located on a lot and intended for use exclusively as residential living quarters as constructed by the Developer upon a Parcel.
- 1.7 Improvement. Any permanent structure attached to the Property and for which the City of Chicago requires the issuance of a building permit and in addition any ancillary facilities such as garages or parking areas, driveways, curbs, fences, and sidewalks and landscaping for the remaining portion of the parcels not occupied by such improvements and their ancillary facilities.
- 1.8 Maintenance Fund. All monies collected by the association pursuant to the terms hereof.
- 1.9 Member. Each person or entity who is a member of the Association, as provided in the By-laws.
- 1.10 Parcel. A Parcel of land improved or intended to be improved with one Townhouse.
- 1.11 Parcel Owner. The person or persons whose estate or interests, individually or collectively, aggregate fee simple ownership of a Parcel (without reference to the interests of lien holders or tenants for terms of years or otherwise).
- 1.12 Percentage Interest. The interest, if any, assigned to each Parcel in Exhibit C that contains the legal descriptions and addresses of each parcel.

- 1.13 Person. A natural person, corporation, partnership, trustee or other entity capable of holding title to real property.
- 1.14 Property. . The real estate legally described on Exhibit A attached hereto and any Additional Land that may be added pursuant to Article XV.
- 1.15 Townhouse. Any Improvement, complete or incomplete, and intended only for occupancy as a residence and located on a Parcel.

ARTICLE II
Easements

- 2.1 Each Parcel Owner, Member, and their respective family members, mortgagees, contractors, agents, tenants, licensees, invitees, heirs, successors and assigns shall have an easement over on and through the roadway, driveway, alley, curb and sidewalk portions of the Subject Property for ingress and egress to and from such Parcel Owner's or Member's Parcel. All of the foregoing parties except the contractors, agents, and licensees also shall have an easement over, on and through the balance of the Common Property to use and enjoy any of the improvements therein without causing any material damage thereon.
- 2.2 Each Parcel Owner shall maintain those portions of his or her Parcel which are subject to easements granted hereunder except as otherwise provided herein, provided the Association, in its sole discretion, shall have the authority to assume any such costs as it deems appropriate.
- 2.3 All easements and rights described in this Declaration are easements appurtenant, running with the land, and shall inure to the benefit of, burden and be binding upon the undersigned, their successors and assigns, and upon any owner, purchaser, mortgagee, or other Person having an interest in the Property, or any part thereof.
- 2.4 The Ameritech Telephone Company, Commonwealth Edison Company, Peoples Gas, Light & Coke Company, Prime Cable Company, and all other suppliers of utilities service the Property are hereby granted the right to install, lay, construct, operate, maintain, renew, repair and replace conduits, cables, pipes, wires, transformers, mains, switching apparatus and other equipment, including housings for such equipment, into, over, under, on and through any non-dedicated roadways on the Property for the purpose of providing utility services to the Property; provided any and all such future utility services shall, if possible, access the Property and each Parcel through the underground pipes which presently service the property and the Parcels. Every Parcel is also hereby granted an easement of ingress and egress over and upon any other Parcel for any and all purposes arising out of the construction, installation, repair, maintenance, replacement and inspection of utilities servicing such Parcel Owner's Parcel. Easements are also hereby declared and granted to the Declarant or its assignee to install, lay, construct, operate, maintain, renew, repair and replace any conduits, cables, pipes, wires or other equipment or components of a community antenna

television service system into, over, under, on and through any Parcel for the purpose of providing such television service to the Property or to other property. Easements are also hereby declared and granted for the purpose of utility installation, construction, service and maintenance under each and any of the Parcels and through the buildings constructed thereon. This shall include service and maintenance of utility lines which are no longer the responsibility of the utility provider.

- 2.5 Notwithstanding any provision herein to the contrary, the easements created under this Section shall be subject to the rights of the Declarant to execute all documents and do all other acts and things affecting the Property which, in the Declarant's opinion, are desirable in connection with the Declarant's rights hereunder, provided any such document or act or thing is not inconsistent with the property rights of any Owner. Declarant reserves the right for Developer to use any portion of the Property as it deems necessary in connection with the sale or rental of Improvements being constructed or to be constructed within the Property, including but not limited to parking for sales personnel and sales prospects.
- 2.6 If (i) by reason of design, construction, location, repair, settlement shifting or movement, any dwelling or other improvement as originally constructed by the Declarant on any Parcel overhangs or otherwise encroaches or shall hereafter encroach upon any other Parcel, or (ii) by reason of the design or construction of utility, ventilation, and exhaust systems, as originally constructed by Declarant, any mains, pipes, ducts or conduits servicing any Parcel or more than one Parcel, encroach or shall hereafter encroach upon any part of any Parcel, then, in any such case, perpetual easements for the maintenance of such encroachments together with the right to enter upon such other Parcel to maintain, repair, and replace such encroachment are hereby established and shall exist, for the benefit of such Parcel so long as such dwelling or other improvement shall remain standing; provided, however, that if any such dwelling or other improvement is partially or totally destroyed and thereafter repaired or rebuilt, the same encroachment may be re-established and the easements herein granted for the maintenance, repair and replacement thereof shall continue in force.
- 2.7 A perpetual non-exclusive easement for ingress and egress over the Common Area is granted the City of Chicago, its employees and agents, for the purposes of providing the Owners and the Property with public services as shall be provided by the City of Chicago from time to time to the Owners.
- 2.8 Each Owner of a Townhouse is hereby granted the following perpetual non-exclusive easements: (a) for access on, over and across the Common Areas and Common Facilities thereon at reasonable times and locations to effectuate repairs and improvements by an Owner and his contractors and agents to his Townhouse by such Owner if and when such access may be required for such purpose; (b) for emergency access and egress on, over, and across the roofs, decks, balconies and exit stairways on adjacent Townhouse Parcels in the event of imminent threat to personal safety.
- 2.9 The Declarant expressly reserves the following rights and easements: To reserve or grant

easements in, on or over the Property for the installation, construction and maintenance of any and all utilities serving the Property or any Parcel.

ARTICLE III

Violation of Certain Rules

If any of the options, privileges, covenants, or rights created by this Declaration should be unlawful or void for violation of (a) the rule against perpetuities or some other or analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty one (21) years after the death of the survivor of the now living lawful descendants of Linda Tripp.

ARTICLE IV

Restrictions as to Use and Occupancy

4.1 Use and Occupancy of the Parcels.

- 1) No part of the Property shall be used for other than housing, parking, and related common purposes for which the Property was designed. Each Parcel shall be used as a residence for a single family dwelling and for no other purposes.
- 2) There shall be no obstruction of the driveways, nor shall ready access to a garage or entrance to any Parcel be obstructed or impeded in any manner.
- 3) No Parcel Owner shall permit anything to be done or kept on his Parcel which would be in violation of any law.
- 4) No Parcel Owner shall be permitted to make any Alteration to the facade of such Parcel Owner's Townhouse without the prior written consent of the Board, such consent to be provided in the Board's sole and absolute discretion.
- 5) Other than Declarant's improvements, no permanent structures shall be affixed to the Parcel, such as outbuildings, barns and sheds. No outdoor clotheslines shall be permitted on the Parcels and yards shall not be used for storage purposes. Garages shall be used for storage of vehicles and for no other purpose including the making of mechanical repairs to vehicles. Garage doors shall remain closed to the extent possible.
- 6) No animals of any kind shall be raised, bred, or kept on any Parcel except dogs, cats, or other household pets which may be kept subject to rules and regulations adopted by the Board, provided 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 Property upon ten

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- (10) days written notice from the Board. No snakes or poisonous insects shall be permitted to be kept in any Townhouse or on any Parcel. Any dog, cat or other animal excrement shall be removed from the yards of each individual Parcel immediately by said animal's owner.
- 7) No noxious or offensive activity shall be conducted on any Parcel nor shall anything be done therein or thereon, either willfully or negligently, which may be or become an annoyance or a nuisance to other Parcel Owners or occupants.
- 8) No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any Parcel, if such use adversely affects the operation of the Property as a first class residential development. Home-based businesses or professions consistent with local ordinances shall be allowed to the extent they do not interfere with, annoy or create a nuisance to other Parcel Owners or occupants.
- 9) No signs of any kind shall be posted on the Property, except for "For Sale" signs which (i) shall in no event be larger than 20 inches by 30 inches, and (ii) may only be displayed in a manner as limited by the Board. No such signs shall be allowed prior to the conveyance of 100% of the Townhouses by the Developer.
- 10) All refuse, in containers or otherwise, shall not be placed out of doors except in those areas specifically designated by the Developer for the storage of trash.
- 11) Except (i) as constructed or altered by or with the permission of the Developer, or (ii) as constructed within the interior of a Townhouse, nothing shall be altered or constructed in or removed from any Parcel except upon the written consent of the Board.

ARTICLE V

Abrogation of the Declaration

This Declaration may be abrogated upon recommendation by the Board and approval of all Parcel Owners and all mortgagees with then existing recorded liens on Property. Such abrogation shall be evidenced by an instrument setting forth such abrogation signed by the duly elected officers of the Association, all Parcel Owners and any such mortgagees, and shall be effective upon recording of the same in the office of the Recorder of Deeds of Cook County, Illinois.

All easements created by this Declaration and in use as of the date of the recording of such instrument shall remain in full force and effect until vacated by all parties having an interest herein.

ARTICLE VI
Maintenance of Parcels

6.1 Parcels. Each Parcel Owner, at his sole cost and expense, shall maintain, repair and replace the interior and exterior of his Parcel and the Improvements therein, keeping the same sightly and in good condition and repair, including without limitation, all landscaping enclosed by privacy fences, painting, staining, refinishing, maintenance, repair, replacement and tuckpointing of the exterior surfaces and structural components of the dwellings and garages, including, without limiting the generality of the foregoing, all outer walls, screens, doors and glass surfaces, and window washing and repair. No owner shall be permitted to alter the grading of his Parcel or the facade of the Townhouse or his Parcel.

6.2 Maintenance by Association. The Association shall be responsible for:

- 1) snow removal from the public walks and alleys adjacent to the Property: nothing herein contained shall impose upon the Association any greater duty with respect to snow removal than is otherwise imposed by law;
- 2) grass cutting, maintenance, and replacement of landscaping of the parkways adjacent to the Property; and
- 3) all fences installed by the Developer on the Parcels.

6.3 Maintenance in First Class Condition. All maintenance, repairs and replacements shall be made when and as deemed necessary by the Association to maintain the Parcels in a first-class residential development. Each Owner shall maintain in first-class condition and repair all exterior portions of his or her Townhouse not maintained by the Association, including by way of example and not limitation, trim, lighting, roof decks, balconies, shutters, doors, walks, patios, roofs and all shrubbery, trees, grass and plantings on Parcels enclosed by fences.

In the event any Parcel Owner fails to maintain or repair his Townhouse or Parcel as aforesaid, the Association shall have the right, but not the obligation, to enter upon such Parcel Owner's Parcel and Townhouse to perform such maintenance or repair and such Parcel Owner shall pay all costs and expenses of the Association incurred thereby upon demand. The cost of any maintenance, repairs and replacements performed by the Association under this Section shall be charged to the Parcel Owners benefitted thereby and shall be added to the assessment payments due from such Parcel Owners and shall bear interest and constitute the personal liability of such Parcel Owner and shall be a continuing lien on such Parcel Owner's Parcel and Townhouse enforceable as provided in this declaration.

6.4 Damage or Destruction. In the event of any damage to a Townhouse by fire or other casualty, the Parcel Owner of such Townhouse shall repair, restore and rebuild the portion of such

Townhouse damaged or destroyed to its condition, as near as possible, immediately preceding such fire or other casualty as rapidly as possible, but in all instances within one hundred twenty (120) days after the occurrence of such damage, unless prevented by inclement weather or other causes beyond such Parcel Owner's control, in which event reconstruction shall be completed within one hundred eighty (180) days after the occurrence of such damage. Should such Parcel Owner fail to reconstruct such Townhouse as aforesaid, the Association may undertake to do such construction as it deems necessary, and to charge such Parcel Owner the costs thereof. Any amounts so charged to a Parcel Owner shall bear interest and constitute a lien in the same manner as provided in Section 6.3 hereof.

ARTICLE VII
Administration

- 7.1 The duties and powers of the Association and its Board shall be those set forth in this Declaration, the By-Laws, and its Articles of Incorporation, as such Articles may be amended from time to time as provided in Article XIV.
- 7.2 Notwithstanding anything in this Declaration of the By-laws of the Association to the contrary, the first and each subsequent Board of the Association shall consist of, and vacancies on the Board shall be filled by, such persons as the Developer shall from time to time appoint, who may but need not be members of the Association, until the first to occur of the following event (the "Transition Events"): the expiration of five (5) years after the date of recording of this Declaration or (ii) the conveyance by Declarant of 100% of the units to the various Parcels. The Developer shall have the right, from time to time, to remove from office any Director or Committee member appointed by it. Without the prior written consent of Declarant, neither the Articles of Incorporation of the Association nor the By-Laws shall be amended, modified or changed in any way to diminish the authority of the Board, while the Developer may appoint all members of the Board. The Declarant may, from time to time, by written notice to the association, elect to relinquish its right to appoint the remaining members of the Board for the period herein above specified. All Directors not appointed by Developer shall be elected as provided in the By-Laws.
- 7.3 All funds collected by the Association shall be held and expended for the purposes designated herein and in the Articles of Incorporation and the By-Laws. All funds shall be deemed to be held for the benefit, use and account of the Parcel Owners. Upon termination of the Association, any surplus shall be distributed as provided in the By-Laws.
- 7.4 The members of the Board and the officers and employees of the Association shall not be liable to the Parcel Owners for any mistake of judgment, or any acts or omissions, made in good faith as such members, officers or employees.
- 7.5 The Board, on behalf of the Association, shall have such powers as are contained in the By-Laws and shall have the following general powers.

- 1) to adopt rules and regulations governing the use, maintenance and administration of the Parcels and Townhouses for the health, comfort, safety and general welfare of the Parcel Owners and occupants thereof.
- 2) to provide for maintenance, repair and replacement with respect to the Parcels and Townhouses on the terms provided for in Article VI hereof.
- 3) to enter into contracts on behalf of, and to purchase or secure in the name of, the Association any materials, supplies, insurance (including directors and officers' liability insurance). Equipment, fixtures, labor, services (including the services of accountants and attorneys) required by the terms of this Declaration or the By-Laws of the Association, or which in its reasonable opinion shall be necessary or proper for the operation or protection of the Association and its members and for the enforcement of the provisions of this Declaration.
- 4) to enter upon, and to have its contractors, subcontractors and agents enter upon, any Parcel and the exterior of any Townhouse as may be required to exercise all of the rights and obligation granted to or imposed upon it pursuant to this Declaration or to correct any condition that in the Board's judgment is a nuisance or is damaging to any Parcel Owner or occupant.
- 5) to enter into contracts, maintain one or more bank accounts (granting authority as the Board shall desire to one or more person to draw upon such accounts), and generally, to have all the powers necessary and incidental to the operation and management of the Association.
- 6) to adjust the amount, collect and use any insurance proceeds to repair damaged or replace lost property. To assess the appropriate Members in proportionate amounts to cover the deficiency.
- 7) to take such action as may be required to enforce the provisions of this Declaration and the rules and regulations made hereunder.
- 8) to grant non-exclusive easements in respect to, and to dedicate to or as directed by governmental authorities, portions of the Property and to execute and cause to be recorded such instruments as may be required in respect thereto.
- 9) to borrow money in the name of the Association to provide for the maintenance, repair or replacement of the Property; provided, however, that the Board shall not secure any such borrowings by encumbering the Property with a mortgage or trust deed without the affirmative vote of at least 66-2/3% of the votes of all Members of the Association. The Board shall however, have the power to secure such borrowings by pledging and granting a security interest in the assessments due the Association hereunder.

- 10) to enter into a contract for the management of the Property with a professional manager or management company on such reasonable terms as the Board shall determine; provided that, except as to any contract to provide security services to the Townhouses, any such contract shall be cancelable by the Association at the end to two (2) years from the date of recording of this Declaration.
- 11) to exercise any and all powers, rights and authorities provided in the Illinois General Not-for-Profit Corporation Act, as amended from time to time.

ARTICLE VII-A
BY-LAWS

- 7A.1 Association. The Association has been or will be formed as an Illinois not-for-profit corporation under the General Not-For-Profit Corporation Act of the State of Illinois having the name "Roscoe Pointe Townhouses Association" (or one similar thereto) and shall, to the extent hereafter provided and subject to the limitations hereafter contained, be the governing body of the use, maintenance and repair of the Common Area. The Association shall not be deemed to be conducting a business of any kind, and all funds received by it shall be held and applied by it in trust for the use and benefit of Owners in accordance with the provisions of the Declaration.
- 7A.2 Membership. Every Owner of a Townhouse shall be a member of the Association and such membership shall automatically terminate when he or she ceases to be an Owner. Membership is appurtenant to and shall not be separated from ownership of a Townhouse. Each Owner by acceptance of a deed or other conveyance of a Townhouse thereby becomes a member, whether or not this declaration of said membership is made a part of, incorporated by reference, or expressed in said deed or conveyance. Continuing membership in the Association shall be compulsory and no Owner of any interest in a Townhouse shall have any right or power to disclaim, terminate or withdraw from his or her membership in the Association or any obligations as such member, any such purported disclaimer, termination or withdrawal being null and void. There shall be one person with respect to every Townhouse who shall be entitled to vote at any meeting of the Members. Such person shall be known as the "voting member." The voting member may be the Owner, or one of the group comprising Owner of a Townhouse or may be some person designated by such Owner to act as Proxy on his or her behalf and who need not be an Owner. The designation shall be made in writing to the Board and shall be revocable at any time by written notice to the Board by the Owner.
- 7A.3 Voting Rights. The Association shall have two classes of voting members: (a) Class A voting members shall be all Owners with the exception of the Developer and each class A voting member shall be entitled to one vote for each Townhouse owned by him or her; (b) Class B voting member shall be the Developer who shall at any given time be entitled to three (3)

times the number of votes to which the Class A voting members shall be entitled to at such time. The Developer shall cease to be a Class B voting member and become a Class A voting member upon the first to occur of the following events: (1) The date upon which the Developer and Declarant shall have sold and conveyed title to ninety (90%) percent of the total number of Townhouses within the Property, or (2) the date upon which the Developer elects to convert its Class B membership to Class A membership by written notice to the Board.

7A.4 Election of the Board. The initial Board designated by the Developer shall consist of three directors who shall serve without compensation. Such initial Board shall serve for a period commencing on the date the Association is formed by the filing of the Articles of Incorporation therefor in the office of the Secretary of State of Illinois and ending upon the qualification of the Board elected at the initial meeting of voting members held as provided in section 7A.4 hereof. At that initial meeting, the voting members shall elect five (5) Board members who shall serve until the first annual meeting. In all elections for members of the Board, each voting member shall be entitled to vote on a non-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 except as otherwise provided herein. Each voting member shall be entitled to cast the number of votes equal to the positions on the Board being filled by such election. Board members elected at the initial meeting shall serve until the first annual meeting. At the first annual meeting of the voting members, five (5) Board members shall be elected. Elections for candidates receiving the same number of votes shall be determined by lot. All Board members shall serve in office for a term of one (1) year and may be re-elected following expiration of their term. The Board shall act by majority vote of those present at its meeting when a quorum exists. Meetings may be called, held and conducted in accordance with such regulations as the Board may adopt. Four members of the Board shall constitute a quorum.

7A.5 Meetings of Voting Members.

(a) Meetings of voting members shall be held in such places and at such times as shall be designated in any notice of a meeting by the Board. The presence in person or by proxy at any meeting of the voting members 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 voting members at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes present at such meeting. In the event that a quorum is not present at any meeting of the voting members, another meeting may be called by notice from the Board and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting; provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

(b) The initial meeting of voting members shall be held not less than twenty (20) days written notice from the Developer. Such notice must be given no later than thirty (30) days after the sale and conveyance of title to ninety (90%) percent of the total number of

Townhouses constructed by Developer on the Property, but such notice may, in the Developer's discretion, be given earlier. Thereafter, there shall be an annual meeting of the voting members on the second Tuesday of October of each succeeding year thereafter, or at such other reasonable date and at such time, and at such place, as may be designated by written notice from the Board.

(c) Special meetings of the voting members may be called at any time for any reasonable purpose on not less than ten (10) days notice from a majority of the Board of the voting members holding one-fourth (1/4) of the total votes.

(d) Notices of meetings may be delivered personally or by mail to the voting members, addressed to each voting member at the address given by him or her to the Board, or if no address shall be given, addressed to such voting member to the address of the Townhouse.

7A.6 General Powers of the Board. See section 7.5.

7A.7 Meetings of the Board. The Board shall meet quarterly on the first Tuesday of October, January, April and July during the first year following the initial meeting of the voting members held as provided above. Thereafter, meetings shall be scheduled by the Board at such times as its members shall determine to be necessary to satisfy the duties, obligations and requirements of the Board created by this Declaration.

7A.8 Officers and Their Duties. The officers of the Association shall be a President, a Vice President, a Secretary, a Treasurer and such other officers as the Board shall see fit. All such officers shall be selected from members of the Board. The officers of the Association shall be elected annually by the Board at the regular annual meeting of the Board. If the election of the Officers shall not be held at such meeting, such election shall be held as soon thereafter as is convenient. Vacancies may be filled, or new offices created and filled by any meeting of the Board. Each officer shall hold office until his successor shall have been duly elected and shall have qualified. Any officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term. The office of Vice President may be kept vacant for any period of time if the Board of Directors declines to fill such office during such period. Any one individual may hold more than one office, provided however, that no one individual simultaneously may hold the office of President and Secretary, or President and Vice President.

The duties of the officers are as follows:

(a) President. The President shall be the chief executive officer of the Association and shall, in general, supervise and control all of the business and affairs of the Association. He or she

shall preside at all meetings of the members and of the Board of Directors. He or she may sign, with the Secretary or any other proper officer of the Association, authorized by the Board of Directors, any deeds, mortgages, contracts, easements, or other instruments which the Board of Directors has authorized to be executed and, in general, shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

(b) Vice President. In the absence of the President or in the event of the inability or the refusal to act of the President, the Vice President shall perform the duties of President, and when so acting, shall have all the powers of, and be subject to, all the restrictions upon the President. In addition, the Vice President shall perform any other duties that may be assigned by the Board.

(c) Treasurer. The Treasurer shall keep the financial records and books of account of the Association and shall perform all duties incident to the office of treasurer and such other duties as from time to time may be assigned by the President or the Board.

(d) Secretary. The Secretary shall keep the minutes of the meetings of the members and of the Board and, in general, perform all duties incident to the office of the secretary and such other duties as from time to time may be assigned by the President or the Board.

7A.9 By-Laws. This Article 7A shall constitute, and be deemed to be, the By-Laws of the Rosses Pointe Townhouse Association. Provisions of these By-Laws may be amended by affirmative vote of three-fourths (3/4) of the Townhouse Owners in the manner set forth in Section 14.4.

ARTICLE VIII

Assessments - Maintenance Fund

8.1 Annual Assessment. Each year on or before October 1st, the Board shall estimate the annual budget of common expenses including the total amount required for the cost of wages, materials, insurance, real estate taxes, services and supplies that will be required during the ensuing calendar year for fulfilling the obligations of the Association as provided herein, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, if any, and it shall also notify each Parcel Owner on or before October 1st in writing as to the amount of such estimate with a reasonable itemization thereof. Such common expenses shall be assessed to the Parcel Owners equally but may be prorated based on ownership for less than a full year. Parcels owned by Declarant shall not be assessed nor shall they be included when computing the assessments, but it is anticipated that the Declarant will make an equitable contribution towards maintenance. If, due to the act or neglect of a unit owner or of a member of his family or household pet or of a guest or other authorized occupant or visitor of such unit owner, damage shall be caused to a unit or units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be at the common expense, then such unit owner shall pay for such damage and such maintenance, repairs, and replacements as may be determined by the Board, to the

extent not covered by insurance.

On or before the first day of January following receipt of the budget and the first day of July of such year, each Parcel Owner shall pay to the Association, or as the Association may direct, one-half (1/2) of the assessment made pursuant to this Section 8.1. On or before the first day of March of each year, the Board shall supply to all Parcel Owners an itemized accounting of the Association's expenses for the preceding year, whether paid or accrued, together with a tabulation of the amounts collected, and showing the net income or deficit plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves as provided herein shall be credited against the next installments due from Parcel Owners under the current year's annual budget until such excess is exhausted. Any net shortage shall be added to each Parcel Owner's installments due in six months succeeding the rendering of the accounting, allocated between those installments as the Board, in its sole discretion, shall determine. The Board may build up and maintain a reasonable reserve for contingencies and replacements of the facilities and Improvements, if any, located within any easements granted to the Association herein. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged against such reserve. If the annual budget proves inadequate for any reason, including non-payment of any Parcel Owner's assessment, the Board may at any time prepare an adjusted budget and levy a further assessment based thereon, which shall be assessed to the Parcel Owner equally. The Board shall serve notice of such further assessment on all Parcel Owners by a statement in writing-giving the amount and reasons therefor, and such further assessment shall become effective with the next installment which is due more than thirty (30) days after the delivery in person of such notice of further assessment.

The failure or delay of the Board in preparing or delivering the annual or adjusted budget to the Parcel Owners shall not constitute a waiver or release in any manner of the Parcel Owner's obligation to pay the assessments, as herein provided, whenever the same shall be determined, and in the absence of the preparation and delivery of any annual budget or adjusted budget, the Parcel Owners shall continue to pay the assessment charges at the then existing rate established for the previous period until the first installment which is due more than ten (10) days after such new annual or adjusted budget shall have been mailed or delivered.

- 8.2 Special Assessments. In addition to the annual assessments authorized pursuant to Section 8.1, the Board may at any time or from time to time levy special assessments. Special assessments shall be levied for the purpose of defraying, in whole or in part, the cost incurred by the Association for any repair, replacement, maintenance, service, labor or materials not provided for in the Aggregate Annual Assessment for the then current calendar year. Except for special assessments which shall not exceed in any one twelve (12) month period the sum of Two Hundred and No/100 Dollars (\$200) per assessed Parcel, any such special assessment shall first be approved by the affirmative votes of not less than one-half (1/2) of the votes cast at the annual or a special meeting of the Members called and held in accordance with

the provisions of Section 8.3 hereof. Special assessments shall be allocated to each Owner in the same manner as such Owner's respective share of the Aggregate Annual Assessment. Special assessments may not be assessed against Parcels owned by the Developer.

- 8.3 Notice and Quorum. Written notice of any meeting called for the purpose of authorizing any special assessment requiring approval pursuant to Section 8.2 hereof shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence in person or by proxy of Members entitled to cast one-half (1/2) of all the votes shall constitute a quorum.
- 8.4 Books of Account. The Board shall keep full and correct books of account on such basis as the Board shall determine. Upon request of any Parcel Owner or mortgagee, such books of account may be inspected by such requesting person or its representative, duly authorized in writing, at such office and at such reasonable time or times during normal business hours, as the Board shall designate in writing.
- 8.5 Lien for Assessment. From and after the date of any assessment against any Parcel and until paid, the assessments provided for herein shall be a lien upon the Parcel owned by such Parcel Owner and after the recording of notice of the amount then due for which a lien claim is being asserted by the Association and the giving of at least thirty (30) days prior written notice to all other lien holders. The lien may be foreclosed under the laws of the State of Illinois, and each Parcel Owner for itself and its successors and assigns, hereby waives any right of redemption from foreclosure sale as may exist under Illinois law. In addition, the obligation of each Parcel Owner to pay all of the assessments provided for herein shall be a personal obligation of each Parcel Owner (and beneficiary of trust if Parcel Owner is an "Illinois land trust") at the time the obligation is incurred and shall be deemed to be assumed as a personal obligation by anyone who succeeds to such Parcel Owner's interest in the Parcel or in the case where the Parcel is owned by a land title holding trust, to the interest of the beneficiary under such trust.
- 8.6 Subordination of Lien to Mortgage. Any lien under this Declaration shall be subordinate to any mortgage or trust deed made, owned or held by any lender recorded prior to the recording of a notice by the Association, except that the Association lien shall not be subordinate to the extent that the amount due is for services rendered after such lender (i) takes possession of the Parcel, or (ii) accepts a conveyance of the Parcel, or (iii) has a receiver appointed in a suit to foreclosure the lien of such mortgage or trust deed or to the extent the lien for unpaid assessments represents said Parcel's proportionate share of any previous unpaid assessment levied against the affected assessment the Association now seeks to collect by reassessment of all Parcel Owners.
- 8.7 Late Charges. If a Parcel Owner is in default in the payment of any charges or assessments hereunder for 15 days, the unpaid balance of such charges and assessments shall bear interest at the lower of (i) the rate of two percent (2%) per month for each month or part thereof that such amount remains unpaid or (ii) the highest lawful rate that may be charged under the Illinois usury laws to borrowers such as the Parcel Owner. Additionally, in the event of the

failure of any Parcel Owner to pay any assessment, maintenance charge, interest charge or other fees or costs of collection when due, a late fee of twenty-five dollars (\$25) shall be added to the assessment. In addition, there shall be added to the amount due all costs of collection including reasonable attorneys' fees incurred in respect thereto whether or not suit shall be filed and the costs of any such suit.

8.8 Non-Waiver. No Parcel Owner may waive or otherwise escape liability for the assessment provided for herein by abandonment of the Parcel.

8.9 Exemption from Assessment on Parcels Owned by Declarant. In order that those Parcels which are improved with Townhouses and conveyed or leased by Declarant or its Agents may, with reasonable promptness, receive the benefits of maintenance by the Association for the enjoyment of the residents of the Property, and also be subject to assessments therefor, and so as not to discourage the Developer from voting for such assessments at such times as the Declarant may still own a substantial number of unoccupied Parcels, and inasmuch as assessments levied against such Parcels impose a burden on the Declarant without the Declarant desiring, or receiving the benefits of maintenance upon such Parcels as may from time to time be provided by the Association, it is therefore expressly provided that no Parcel owned by the Declarant, shall be subject to the assessments, charges and liens provided for herein until the date upon which such Parcel shall be conveyed to a bona fide purchaser or leased to any person who shall have commenced to pay rental therefor or sold pursuant to installment contract or articles of agreement for deed; provided, however, that each year, until the initial meeting of the Board of Directors pursuant to Article VII, Section 7.3, the Declarant shall contribute to the Association the amount, if any, by which the operating expenses of the Association incurred or paid during such year (exclusive of any amounts allocated to reserves) exceed the gross revenues of the Association during such year.

Upon the conveyance or leasing by Declarant of a Parcel which was theretofore entitled to the foregoing exemption from assessments, such Parcel and the Owner thereof shall immediately become subject to the payment of all assessments and other charges and the liens provided for herein.

8.10 Initial Assessments. The Declarant shall collect from each purchaser of a Parcel, at the time of closing of the purchase thereof, an amount equal to two (2) times the then current semi-annual assessment allocable to such Parcel. The amounts so collected shall be utilized to fund an operating reserve for the Association. The Association hereby indemnifies and holds harmless the Declarant, its agents, successors and assigns for any claims relating to the insufficient funding of an operating reserve for the Association.

ARTICLE IX

Rights Reserved to Declarant

9.1 Developer's Promotional Rights. The right is reserved to the Developer to place and maintain on any area of the Parcel or Property, with the exception of a Parcel which has been sold and conveyed or sold on contract, or sold pursuant to an installment contract or articles

of agreement for deed, to an Owner, all model Townhouses, construction trailers, sales offices, fencing, flag poles, advertising signs, banners and lighting in connection therewith and other promotional facilities at such locations and in such forms as shall be determined by Developer for construction, sales and leasing purposes. There is also reserved to the Developer, its agents, employees and prospective purchasers and tenants, the right of ingress, egress and transient parking in and through the Property for such sales and leasing purposes.

The Declarant also reserves for Developer the right to maintain on the Parcel without charge (1) a general office for the purpose of exercising the rights reserved in Paragraphs 9.1 and 9.2 hereof, (b) a general construction office for Developer's contractors and subcontractors and (c) appropriate parking facilities for the employees of Developer's agents and contractors. Developer's aforesaid reserved rights shall continue for so long as Developer is engaged in the construction, sale or leasing of Townhouses on any portion of the Property.

9.2 Declarant's and Developer's Easements. The Declarant reserves unto itself and Developer, a non-exclusive easement to, through, over, under and across the Property and all portions thereof for the purpose of exercising the rights reserved to the Declarant pursuant to this Declaration, including without limitation, the planning, construction, marketing, leasing, management and maintenance of improvements in any portion of the Property. Such easement shall continue for a period of five (5) years from the date of this Declaration unless Declarant, by written notice to the Association, elects to terminate such rights prior to such date. All rights and easements in favor of the Parcel Owners created by this Declaration shall be subject and subordinate to the aforescribed development rights and easements of Declarant and Developer, whether or not inconvenience to any Parcel Owner shall result therefrom. The rights and easements reserved pursuant to this section and section 9.4 shall inure to the benefit of the Declarant, Developer, their respective successors and assigns including any successor to or assignee of the Declarant's and Developer's rights under this Declaration.

9.3 Contracts. The Developer shall have the right to enter into contracts on behalf of the Association prior to the date of the initial meeting of Members; provided, however, that with the exception of contracts for cable television service or security monitoring service, any such contracts shall be terminable by the Association without penalty on not more than ninety (90) days prior notice no later than two (2) years following the date of recording of this Declaration.

9.4 Declarant's and Developer's Rights. In addition to any rights or powers reserved in this Declaration, the Declarant and Developer shall have the right and powers set forth in this Section. In the event of a conflict between the provisions of this Section and any other provisions of this Declaration, the provisions of this Section shall govern. Except as otherwise provided in this Section Declarant's and Developer's rights under this Section shall terminate at such time as the Declarant is no longer vested with or controls title to any portion of the Property. Developer shall have the right, in its discretion, to maintain on the Property model improvements, sales, management, and/or administrative offices (which may be located in an Improvement), displays, signs and other forms of advertising and, to the extent not prohibited by law, to come upon any portion of the Property for the purpose of

showing the Property to prospective purchasers or lessees of Parcels, all without the payment of any fee or charge whatsoever other than the assessments payable by the Declarant or Developer with respect to Parcels owned by it. The Declarant, Developer, their agents, and prospective purchasers and lessees of Parcels shall have a non-exclusive access easement over and across the roads and walkways located on the Property for ingress and egress to and from those portions of the Property which have not been made subject to this Declaration in order to exercise the rights reserved under this Paragraph, for or incident to such sales or leasing purposes and, during construction by Developer, the right of ingress and egress for construction traffic and model parking in and throughout the Parcels in connection with such construction. Developer, its agents and contractors shall have the right to come upon the property, to construct Improvements thereon and to make alterations, repairs or improvements to the Property and shall have the right to store equipment and materials used in connection with such work on the Property without payment of any fee or charge whatsoever. The provisions of this paragraph shall inure to the benefit of any assignee of Declarant or Developer. Except as provided above, no signs of any kind will be displayed by any Parcel Owner without the Declarant's express written consent for a period of five years from the date hereof. Prior to the earlier of the time that the Declarant conveys one hundred (100%) percent of the Townhouses or five (5) years from the date of recording of this Declaration, the Declarant reserves the right to re-record this Declaration and/or to make and record Amendments thereto as necessitated by topographical, scrivener's and/or surveyor's errors or to clarify the various terms hereof.

ARTICLE X

Insurance

- 10.1 Required Coverages. The Board on behalf of the Association shall acquire and pay for out of the Maintenance Fund, the following:
- 1) Comprehensive public liability, directors' and officers' liability (if directors and officers' liability insurance is available at reasonable cost and the Board deems such insurance appropriate), and property damage insurance in such limits as the Board shall deem appropriate (provided the comprehensive public liability insurance shall in no event be in an amount less than \$1,00,000.00 per occurrence); insuring the Association, the Board, the Members, the managing agent, if any, and their respective directors, officers and agents, from any liability in connection with the Property;
 - 2) Worker's Compensation insurance as may be necessary to comply with applicable laws;
 - 3) Such other forms of insurance as the Board deems appropriate.
- 10.2 Association Expense. Except as otherwise provided in this Declaration, premiums for all insurance obtained or maintained by the Association, and the cost of any appraisals which the Board deems advisable in connection with any insurance, shall be an expense of the Association payable from the Maintenance Fund.

- 10.3 Master Policy. The Association may obtain the insurance coverage required herein in connection with and as part of a master policy of insurance maintained by or for any Parcel Owner provided the cost of such coverage is no more than the estimated cost of providing the same coverage under a policy written directly for the Association.
- 10.4 Individual Coverage. Each Parcel Owner shall obtain his own insurance on his Parcel and Improvement and furnishings and personal property therein, and his personal property stored elsewhere on the Property, and his personal liability to the extent not covered by any liability insurance for all of the Parcel Owners, and the Board shall have no obligation whatsoever to obtain any such insurance coverage on behalf of the Parcel Owners.
- 10.5 Waiver. Each Parcel Owner hereby waives and releases any and all claims which he may have against any other Parcel Owner, the Association, its directors and officers, the Declarant, and their respective employees and agents, for damage to Improvements to the Parcels, or to any personal property located in the Parcels, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance, and to the extent this release is allowed by policies for such fire or other casualty insurance.
- 10.6 Condemnation. In the event that part or all of one or more Parcels is taken or condemned, then the portions so taken or condemned shall be deemed to have been removed from the provisions of the Declaration and the Board shall adjust the assessment rates of the remaining Parcels in a just and equitable manner. The President and Secretary of the Association shall execute and record an instrument on behalf of the association which amends this Declaration, effective as of the effective date of the taking or condemnation, to reflect the removal of property and adjustments, if any, in the assessment rates as a result of an occurrence covered by this Section.

ARTICLE XI Rights of First Mortgagee

In addition to all other rights of holders of notes secured by mortgages or trust deeds which constitute first mortgage liens against a Parcel or Parcels ("**First Mortgagees**") pursuant to this Declaration, and notwithstanding any other provisions herein to the contrary:

- 1) Unless Eligible Mortgage Holders (as defined below) representing at least 51% of the Parcels shall have given their prior written approval, the Association shall not be entitled to amend or supplement any of the provisions of this Declaration which deal with the following matters:
 - 1) voting rights;
 - 2) assessments, assessment liens, or subordination of assessment liens;
 - 3) responsibility for maintenance and repairs;

- 4) boundaries of any Parcel;
 - 5) expansion or contraction of the Property;
 - 6) insurance or fidelity bonds;
 - 7) leasing of Parcels;
 - 8) imposition of any restrictions on a Parcel Owner's rights to sell or transfer his or its Parcel;
 - 9) a decision by the Association to establish self management when professional management had been required previously by an Eligible Mortgage Holder;
 - 10) restoration or repair of improvement to the Parcels (after a hazard damage or partial condemnation) in a manner other than that specified in the documents;
 - 11) any action to terminate the legal status of the Association after substantial destruction or condemnation occurs; or
 - 12) any provisions that expressly benefit mortgage holders, insurers, or guarantors.
- 2) Each Eligible Mortgage Holder shall have one vote for each first mortgage on a Parcel.
 - 3) As used herein, the term "**Eligible Mortgage Holders**" shall mean those First Mortgagees who have requested the Association to notify them of any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders.
 - 4) First Mortgagees shall have the right to examine the books and records of the Association at reasonable times during normal business hours.
 - 5) Any First Mortgagee, at its written request, shall be entitled to written notice from the Board of any default by the Mortgagor of such Parcel in the performance of such mortgagor's obligations hereunder or under the By-Laws or rules and regulations of the Association which is not cured within thirty (30) days.
 - 6) Neither the Declarant nor the Association shall cancel (or cause to be cancelled) the terms of this Declaration or dissolve (or cause to be dissolved) the Association without the prior written consent of at least 75% of the number of Eligible Mortgage Holders.

ARTICLE XII

Party Walls

- 12.1 General Rules of Law Apply. Each wall and fence which is built as a part of the original construction of a Townhouse (or as reconstructed following a fire or other casualty) which is located on the boundary line between separate Parcels, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto. The said dividing walls are hereby declared to be party walls between the adjoining residences erected on said premises.
- 12.2 Repairs and Maintenance of Party Wall. The cost of maintaining each party wall shall be borne equally by the owners on either side of said wall. In the event of damage or destruction of such wall from any cause, other than the negligence of either party thereto, the then owners shall, at joint expense, repair or rebuild said wall, and each party, his successors and assigns, shall have the right to the full use of said wall so repaired or rebuilt. If either party's negligence shall cause damage to or destruction of said wall, such negligent party shall bear the entire cost of repair or reconstruction. If either party shall neglect, or refuse to pay his share, or all of such cost in case of negligence, the other party may have such wall repaired or restored and shall be entitled to have a mechanic's lien on the premises of the party so falling to pay, for the amount of such defaulting party's share of the repair or replacement cost.
- 12.3 Penetration and Drilling Through Party Wall. No penetration into the party wall shall be allowed.
- 12.4 Destruction of Townhouse. In the event of partial or total destruction of any Townhouse or any portion thereof, the dwelling so destroyed may be restored only in accordance with the same plan to which it was originally constructed.
- 12.5 Easement. Neither party shall alter or change said party walls in any manner, interior decoration excepted, and said party walls shall always remain in the same location as when erected, the each party to said common or division wall shall have a perpetual easement in that part of the premises of the other on which said party or extension thereof is located, for party wall purposes and for maintenance of any existing extension of any party wall.

ARTICLE XIII

Violation of Declaration and Remedies

- 13.1 Violation of Declaration. The violation or breach of any covenant, restriction or condition contained herein or rule or regulation adopted by the Association, shall give the Association the right, in addition to any other remedies provided for in this Declaration and under law, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the

continuance of such breach, and the costs of said suit, including reasonable attorneys' fees, shall be awarded to the Association. Failure by the Association to enforce any covenant, restriction or lien herein contained or rule or regulation adopted by the Association shall in no event be deemed a waiver of the right to do so thereafter, no matter how many violations or breaches may occur.

13.2 Remedies. The violation of any covenant, condition restriction, rule or regulation adopted by the Board, or the breach of any provision herein contained, shall give the Board the right, upon not less than ten (10) days notice (or immediately in the event of any matter of an emergency nature which might result in damage to persons or property), in addition to the rights set forth in the next succeeding section:

- 1) to enter upon that part of the Property where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Declarant, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or
- 2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or
- 3) to levy fines in such reasonable amounts and pursuant to such procedures for hearings and appeals as the Board shall from time to time.
- 4) in addition to or in conjunction with the remedies set forth above, in the event of a violation by a Parcel Owner of this Declaration, the By-Laws, or rules and regulations of the Board, the Board or its agents shall have the right to bring an action at law or in equity against the Parcel Owner and/or others as permitted by law including, without limitation, (i) to foreclose the lien against the Parcel (ii) for damages, injunctive relief, or specific performance, (iii) for judgment or for the payment of money and the collection thereof, (iv) for any combination of the remedies set forth in this Article, or (v) for any other relief which the Board may deem necessary or appropriate. Any and all rights and remedies provided for in this Article may be exercised at any time and from time to time cumulatively or otherwise by the Board in its discretion. The failure of the Board to enforce any provisions of this Declaration, the By-Laws or rules and regulations of the Board shall in no event be deemed a waiver of the right to do so thereafter; or
- 5) the provisions contained in Article IV regarding Covenants and Restrictions as to Use and Occupancy, and Article V, Architectural Control may be enforced by any proceedings at law or in equity by any aggrieved Parcel Owner against any person or persons violating or attempting to violate any such provisions, either to restrain such violation or to provide a remedy hereunder.

All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the highest legal contract rate then permitted in Illinois until paid but not to exceed 2% per month per annum until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of this respective share of the expenses of the Association, and the Association shall have a lien for all of the same upon the Parcel of such defaulting Parcel Owner and upon all of the additions and improvements thereto and upon all of his personal property in his Townhouse or located elsewhere on his Parcel. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

Property of Cook County Clerk's Office

ARTICLE XIV
General Provisions

- 14.1 Management. The Declarant hereby reserves for Developer the right, from time to time, for and on behalf of the Association, to engage a manager for the Association and its property during all or any portion of the period during which Developer has the right to appoint Directors as provided in Article VII, Section 7.2. Thereafter, the Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board. Any management agreement executed by the Developer shall be terminable by either party for cause upon ninety (90) days written notice, and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one year periods. Any other contract providing for services by the Developer must provide for termination on ninety (90) days written notice and be for a maximum contract term of three years.
- 14.2 Notices. Notices required or permitted to be given to the Association, and Parcel Owner or Member may be delivered to any member of the Board, such Parcel Owner or Member, as the case may be, either personally or by certified mail with proper postage prepaid, addressed to such party, at the last address of such party shown in the records of the Association, and shall be effective, in the case of personal delivery, upon such delivery, and in the case of mailing, as of the date of mailing. Any mortgagee that registers with the Association by giving written notice of its interest shall receive copies of all notices sent by the Association to the Owner of the encumbered Parcel. Any mortgagee that fails to register with the Association shall have no right to receive any notices whatsoever from the Association.
- 14.3 Covenants Running With Land. The easements, conditions and restrictions hereby created and declared are and shall be perpetual and construed as covenants running with the land and each and every person accepting a deed to any lot in the Property shall be deemed to accept said deed with the understanding that each and every other purchaser is also bound by the provisions herein contained, and each and every purchaser, by accepting a deed to any lot shall thereby consent and agree to be bound by the covenants herein contained to the same extent as though he had signed this instrument. The undersigned, in executing and delivering deeds to said lots shall insert in said conveyances, by reference, that the same are made subject to the terms, conditions, restrictions and covenants herein contained, designating the Recorder's Document Number under which this instrument is recorded.

Each grantee of the Declarant by the acceptance of a deed of conveyance, each purchaser under Articles of Agreement for Deed and each mortgagee or Trustee under trust deed, accepts the portions of the Property covered by such instrument subject to all rights, easements, covenants, restrictions, charges and liens, and the jurisdiction, rights, and powers created in or reserved by, this Declaration, as it may at any time be amended pursuant to Section 14.4 hereof, as though the provisions of this Declaration were recited in their entirety in each and every instrument of conveyance or Articles of Agreement for Deed; it being further agreed that at such times and to such extent as the holder of any mortgage or other

security instrument in the nature of a mortgage upon any Parcel or any successor of such holder shall come into actual possession or ownership (other than as security for debt) of any Parcel or Parcels, the said holder or such successor (as may be the case) shall succeed to all the rights and obligations of the owner of such Parcel in this Declaration expressed.

- 14.4 Amendments. Subject to the rights of mortgagees provided in Article XI, the provisions of paragraphs (1.1), (1.4), (1.5), (1.6), (1.7), (1.8), (1.9), (1.10), (1.11), (1.12), (1.13), of Article I, Article II, paragraph (7.3) of Article VII and this paragraph 14.4 of Article XIV of this Declaration may be amended only by an instrument in writing setting forth such amendment, signed and acknowledged by the duly authorized officers of the Association, all of the Parcel Owners and all First Mortgagees having liens of record against any Parcels. All other provisions of this Declaration may be amended by an instrument in writing setting forth such amendment, signed and acknowledged by the duly authorized officers of the Association and accompanied by a certificate signed by such officers stating that Parcel Owners whose Percentage Interests aggregate at least 75% have approved such amendment, provided, no amendment may be adopted which increases the Percentage Interest of any Parcel without the consent of the affected Parcel Owner and any First Mortgagee which has alien of record against the affected Parcel. This Declaration may also be amended pursuant to the terms of Article IX of this Declaration. All amendments shall be effective upon recording in the Office of the Recorder of Deeds of Cook County, Illinois.
- 14.5 Severability. The invalidity of any restriction hereby imposed, or of any provision hereof, or of any part of such restriction or provision, shall not impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration and all of the terms hereof are hereby declared to be severable.
- 14.6 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purposes. The terms and provisions of this Declaration shall control in the event of any inconsistency between this Declaration, on the one hand, and the Articles of Incorporation and the By-Laws on the other hand.
- 14.7 Land Trust. In the event title to any Parcel should be conveyed to a land title holding trust under which all powers of management, operation and control of the premises remain vested in the trust beneficiary or beneficiaries, then the Parcel held by such trust shall be liable for payment of any obligation, lien, or indebtedness chargeable or created under this Declaration against such Parcel. No claims shall be made against any such title holding Trustee (other than to the extent of the value of the Parcel) for payment of any such obligations, lien or indebtedness, and the Trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or obligation, but the amount thereof shall continue to be a charge or lien upon the Parcel, the title to which is held by the Trustee, notwithstanding any transfer of the beneficial interest or title to such Parcel.

14.8 Captions. The Article and Section headings herein are intended for convenience only and shall not be construed with any substantive effect in this Declaration.

14.9 Amendment to Declaration. Prior to the sale of any Parcel the Declarant reserves the right to record a special amendment ("Special Amendment") to this Declaration for any reason. In addition, the Declarant reserves the right to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities (including without limitation, any bank or savings and loan association) to make, purchase, sell, insure, or guarantee first mortgages covering Parcels, or (iii) to supplement information or correct clerical, or typographical errors in this Declaration or any Exhibit, supplement or amendment hereto. After the sale of any Parcel and prior to the initial meeting of voting members, the Declarant shall have the right to change or modify this Declaration, (provided however, that the provisions of Article XI shall not be amended or modified without the consent of one hundred percent (100%) of the mortgagees holding first mortgages on Parcels) provided such change or modification shall not unfairly or unreasonably affect any rights of any of the Owners. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make any change or modification as authorized hereunder on behalf of each Owner as attorney-in-fact for such Owner. Each deed, mortgage, trust deed, or other evidence of obligation affecting a Parcel and the acceptance thereof shall be deemed to be a grant and acknowledgement of and a covenant and reservation of the power of the Declaration aforesaid. Such amendment shall become effective upon being recorded with the Recorder. The right of Declarant to act pursuant to rights reserved or granted under this section shall terminate at such time as the Declarant no longer holds or controls title to a Parcel under construction or intended by Declarant to be constructed upon the Property.

ARTICLE XV
Additional Land

15.1 Additions to Parcel. Notwithstanding anything to the contrary contained in this Declaration, the Declarant may, at its sole discretion, at any time and from time to time hereafter, add to the Parcel and submit to the provisions of this Declaration some or all of the Additional Land as legally described in Exhibit D attached hereto; provided, however, that the Declarant shall not be obligated to submit any Additional Land to this Declaration.

- 15.2 Supplementary Declarations. In the event that the Declarant elects to annex some or all of the Additional Land to the Parcel, the Declarant shall record with the Recorder a supplementary declaration ("Supplementary Declaration") which shall contain the legal description of the portion or portions of the Additional Land so annexed. Upon the recording of such Supplementary Declaration, the portion or portions of the Additional Lands described therein shall be annexed to the Parcel and shall become subject to all of the terms, covenants, easements, and conditions contained in this Declaration; provided however, that each such Supplementary Declaration may contain such additions to and modifications of the terms, covenants, easements, obligations and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the development of the Additional Land and as are consistent with the scheme and spirit of this Declaration.

IN WITNESS WHEREOF, the said State Bank of Countryside as Trustee under Trust No. 01-2357, dated November 20, 2001, has caused these presents to be signed by its vice-president and attested by its ^{BRANCH OFFICER} assistant secretary this 20th day of DECEMBER, 2002. State Bank of Countryside as Trustee as aforesaid

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings, and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings, and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings, and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally, but are made and intended for binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee, and that no personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against, State Bank of Countryside, on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, State Bank of Countryside, not personally but as Trustee as aforesaid, has caused these presents to be signed by its Vice President and its corporate seal to be hereunto affixed and attested by its ~~Assistant Secretary~~ ^{BRANCH OFFICER}, the day and year first written above.

STATE BANK OF COUNTRYSIDE
Maria A. Kelly
Vice President
[Signature]
Assistant Secretary - ^{BRANCH OFFICER}

State of Illinois
County of Cook SS.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO **HEREBY CERTIFY**, that the above-named Vice President and ~~Assistant Secretary~~ ^{Branch Officer} of said Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as such officers of said Bank and caused the seal of said Bank to be thereunto affixed, as their free and voluntary act and as the free and voluntary act of said Bank, as Trustee aforesaid, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 20th day of DECEMBER, 2002.

CONSENT OF MORTGAGEE

The undersigned, State Bank of Countryside, as mortgagee under the Mortgages dated 3/21/02, 1/7/02, 1/8/02, 3/21/02, 8/22/02 and recorded as Document Nos. 0020401162, 0020-675237 ("Mortgages"), does hereby consent to the execution, delivery, and recording of the Special Amendment to the Declaration of Easements, Restrictions and Covenants for Rosses Pointe Townhomes ("Declaration") and subordinates the lien of the Mortgage to the Declaration.

IN WITNESS WHEREOF, State Bank of Countryside has caused this instrument to be signed by its duly authorized officers on its behalf, all done at ORLAND PARK, Illinois on this 20th day of December, 2002.

*0020-075235, 0020359702,
0020358703, 0020996519,
0020996520

By: Mary A McNally
Title: Vice President

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, MARY JO BARTH, a Notary Public in and for said County, in the State aforesaid, do hereby certify that MARY A. MCNALLY, personally known to me to be the same person whose name is subscribed to the foregoing instrument as VICE PRESIDENT of State Bank of Countryside appeared before me this day in person, and acknowledged that they, being thereunto duly authorized, signed and delivered the said instrument as the free and voluntary act of said entity for the uses and purposes therein set forth.

Given under my hand and notarial seal this 20th day of Dec, 2002.

Mary Jo Barth
Notary Public
"OFFICIAL SEAL"
MARY JO BARTH
Notary Public, State of Illinois
My Commission Expires 11/13/04

EXHIBIT B

COMMON AREA

That portion of the Property not to be conveyed as Townhouses to individual Parcel Owners and legally described as follows:

~~TO BE INSERTED~~

Intentionally omitted.

Property of Cook County Clerk's Office

EXHIBIT C

UNIT ADDRESSES/PERCENTAGE INTERESTS/LEGAL DESCRIPTIONS

UNIT ADDRESS	PERCENTAGE INTEREST
1A 6445 S. Natchez	2.04
1B 6447 S. Natchez	2.04
1C 6449 S. Natchez	2.04
1D 6451 S. Natchez	2.04
1E 6453 S. Natchez	2.04
1F 6455 S. Natchez	2.04
2A 6458 W. 65 th St.	2.04
2B 6456 W. 65 th St.	2.04
2C 6454 W. 65 th St.	2.04
2D 6452 W. 65 th St.	2.04
2E 6450 W. 65 th St.	2.04
2F 6448 W. 65 th St.	2.04
3A 6446 W. 65 th St.	2.04
3B 6444 W. 65 th St.	2.04
3C 6442 W. 65 th St.	2.04
3D 6440 W. 65 th St.	2.04
3E 6438 W. 65 th St.	2.04
3F 6436 W. 65 th St.	2.04
4A 6434 W. 65 th St.	2.04
4B 6432 W. 65 th St.	2.04
4C 6430 W. 65 th St.	2.04
4D 6428 W. 65 th St.	2.04
4E 6426 W. 65 th St.	2.04
4F 6424 W. 65 th St.	2.04
5A 6422 W. 65 th St.	2.04
5B 6420 W. 65 th St.	2.04
5C 6418 W. 65 th St.	2.04
5D 6416 W. 65 th St.	2.04
5E 6414 W. 65 th St.	2.04
5F 6412 W. 65 th St.	2.04
6A 6427 W. 64 th Pl.	2.04
6B 6425 W. 64 th Pl.	2.04
6C 6423 W. 64 th Pl.	2.05
6D 6421 W. 64 th Pl.	2.05
6E 6419 W. 64 th Pl.	2.05
6F 6417 W. 64 th Pl.	2.05

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7A	6437 W. 64 th Pl.	2.04
7B	6435 W. 64 th Pl.	2.04
7C	6433 W. 64 th Pl.	2.04
7D	6431 W. 64 th Pl.	2.04
7E	6429 W. 64 th Pl.	2.04

8A	6459 W. 64 th Pl.	2.04
8B	6457 W. 64 th Pl.	2.04
8C	6455 W. 64 th Pl.	2.04
8D	6453 W. 64 th Pl.	2.04
8E	6451 W. 64 th Pl.	2.04
8F	6449 W. 64 th Pl.	2.04
8G	6447 W. 64 th Pl.	2.04
8H	6445 W. 64 th Pl.	2.04

Property of Cook County Clerk's Office