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Cook County Recorder of Deeds  
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DECLARATION OF COVENANTS, CONDITIONS  
RESTRICTIONS AND EASEMENTS FOR

707-717 SOUTH KEDZIE  
TOWNHOME ASSOCIATION

This Declaration, made this 1st day of December, 2007, by New West Kedzie, L.L.C., an Illinois Limited Liability Company (Declarant):

WITNESSETH:

WHEREAS, the Declarant is the owner of certain real estate (the "Development Site") located in the City of Chicago, County of Cook, State of Illinois, the legal description of which is set forth in Exhibit "A" attached hereto and made a part hereof, and desires to create thereon a residential community of attached townhomes or other types of residential buildings; and

WHEREAS, Declarant desires to establish certain covenants, conditions, restrictions and easements for the mutual benefit and enjoyment of the Owners from time to time of the Development Site or portions thereof in order to promote, preserve and enhance the value and desirability of the Development Site and the architectural integrity and continuity of the improvements erected thereon and to facilitate the continuing care and maintenance thereof, and in furtherance thereof, intends to submit to the provisions of this Declaration the Development Site (the "Parcel") legally described on Exhibit "A" attached hereto and forming a part hereof;

NOW, THEREFORE, New West Kedzie, L.L.C., as the legal title holder of the Parcel, hereby declares that the parcel legally described in Exhibit "A" attached hereto and made a part hereof is hereby submitted to the provisions of this Declaration and shall be owned, transferred, held, sold, conveyed and accepted subject to this Declaration, all the provisions of which shall be deemed to be covenants running with the land and the Parcel and which shall be binding upon and inure to the benefit of the owners, mortgagees and any other persons, from time to time having or acquiring any right, title or interest in the Parcel or any portion thereof.

ARTICLE I

Definitions

1.1 Association: 707-717 S. KEDZIE TOWNHOME ASSOCIATION, an Illinois not-for-profit corporation, its successors and assigns.

1.2 Developer: New West Kedzie, L.L.C., an Illinois Limited Liability Company, its successors, assigns and transferees.

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 Article III.

1.4 Common Facilities: All roads, sewers, traps, catch basins, water lines, street lights, signs, cable television systems, security systems, fences, benches, monuments, gates and other such improvements located on or under the Development Site or access easement areas.

1.5 Development Site: The real estate legally described on Exhibit "A" attached

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hereto.

1.6 Dwelling Unit: A residential housing unit located on a Townhome Lot and intended for use exclusively as residential living quarters as constructed by the Developer upon the Parcel.

1.7 Lot: Any individual subdivided parcel of real estate shown upon any recorded plat of the Development Site or portion thereof.

1.8 Member: Each person who holds membership in the Association.

1.9 Owner: The person or persons whose estates or interest, individually or collectively, aggregate fee simple absolute ownership of a Lot or Townhome Lot or who have entered into an installment contract or articles of agreement for deed for the purchase of a Townhome Lot; provided that no contract purchaser shall be a member or have voting rights in the Association. For the purposes hereof, unless otherwise specifically provided herein, the word "Owner" shall include any beneficiary of a trust, shareholder of a corporation, member of a limited liability company or partner of a partnership holding title to a Townhome Lot or purchasing a Townhome Lot as aforesaid.

1.10 Parcel: The real estate legally described on Exhibit "A" attached hereto.

1.11 Person: A natural individual, corporation, partnership, trust or other legal entity capable of holding title to real property.

1.12 Plat: The plat of the Development Site recorded or to be recorded, in the office of the Cook County Recorder of Deeds, as from time to time amended.

1.13 Townhome Lot: A portion of a Lot improved or intended to be improved with one Dwelling Unit.

## ARTICLE II

### Easements

2.1 Easement for Unintentional Encroachments: In the event that, by reason of construction, settlement or shifting, any Dwelling Unit or Units located on any Townhome Lot encroaches or shall hereafter encroach upon any portion of any other Townhome Lot which is not owned by the Owner of the Dwelling Unit or Units so encroaching, said easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of the Owner of the Dwelling Unit or Units so encroaching; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Owner if such encroachment or use is detrimental to or materially interferes with the reasonable use and enjoyment of the Townhome Lot burdened thereby or such encroachment results from the willful conduct of the Owner of the Dwelling Unit or Units so encroaching.

2.2 Utility Easements: The City of Chicago, The Peoples Gas Company, Com Edison Company and all other public utilities serving the Development Site (including any utility company providing cable, internet, telephone, micro-wave or satellite television service) are hereby granted

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the right to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, sanitary and storm sewers and services, drainage ways and swales, ducts, wires, street lights and other equipment into and through the areas of the Development Site designated on the Plat or on any other plat of subdivision which Declarant or Developer may from time to time cause to be recorded in the office of the Recorder of Deeds of Cook County, Illinois, for the purpose of providing the Townhome Lots with such utilities. serve imp

In addition, an easement is hereby reserved for and granted to THE PEOPLES GAS LIGHT AND COKE COMPANY, its successors and assigns, to install, construct, operate, maintain, inspect, repair, renew, replace, remove or abandon in place gas mains and service pipes, together with the necessary valves, valve boxes, regulators and other attachments, connections and fixtures for distributing gas to properties within and without the subdivision, upon under, across and within all roads, streets, alleys and common areas (if any) within the subdivision, provided, however, that such facilities, equipment and appurtenances, when installed, will not interfere with the movement of traffic upon such roads, streets, alleys or common areas.

In addition, a perpetual right and easement is hereby granted to COMMONWEALTH EDISON COMPANY, an Illinois Corporation, its licensees, successors and assigns, to construct, operate, maintain, renew, relocate, replace and remove, from time to time, wires, cables, conduits, manholes, transformers, pedestals and other facilities used in connection with underground transmission and distribution of electricity, sounds and signals, together with the right of access to the same and the right, from time to time, to trim or remove trees, bushes and saplings and to clear obstructions from the surface and subsurface as may be required incident to the grant herein given, in, under, upon or across the property herein described, together with right to install required service connections over and under the surface of each lot and common area or areas to serve improvements thereon, or on adjacent lots or common areas or areas. The term "common elements" shall have the meaning set forth for such term in the "Condominium Property Act," Chapter 765 ILCS 605/2(e), as amended from time to time. The term "common area or areas" is defined as a lot, parcel or area of real property, the beneficial use and enjoyment of which is reserved in whole as an appurtenance to the separately owned lots, parcels or areas within the subdivision or planned development, even though such be otherwise designated on the plat by terms such as "outlots," "common elements," "open space," "open area," "common ground," or "parking and common area." The terms "common area or areas" and "common elements" include real property surfaced with interior driveways and walkways but exclude real property physically occupied by a building, Service Business District or structures such as pool or retention pond, or mechanical equipment. Obstructions shall not be placed over Grantee facilities or in, upon or over the easement premises, without the prior written consent of Grantee. After installation of any such facilities, the grade of property shall not be altered in a manner so as to interfere with the proper operation and maintenance thereof. This grant of easement shall run with the land and shall be binding upon and inure to the benefit of Grantor and grantee and their respective successor and assigns.

2.3 General Provisions: All easements described in this Declaration are perpetual non-exclusive easements appurtenant, running with the land. They shall at all times inure to the benefit of and be binding on the undersigned, the Owners and the mortgagees from time to time of any Townhome Lot and their respective heirs, administrators, executors, personal representatives, successors and assigns.

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## ARTICLE III

### Administration

3.1 Association: The Association has been or will be formed as a not-for-profit Illinois corporation under the General Not-For-Profit Corporation Act of the State of Illinois, having the name "707-717 S. KEDZIE Townhome 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, exterior maintenance and repair of the Dwelling Units and Townhome Lots and the use, maintenance and repair of the Common Facilities.

3.2 Membership: Every Owner of a Lot or Townhome Lot shall be a Member of the Association and such membership shall automatically terminate when he ceases to be an Owner. Membership is appurtenant to and shall not be separated from ownership of a Lot or Townhome Lot. Each owner by acceptance of a deed or other conveyance of lot or Townhome Lot thereby becomes a Member, whether or not this declaration of such membership is made a part of, incorporated by reference or expressed in said deed or conveyance. There shall be one person with respect to every Townhome Lot who shall be entitled to vote at any meeting of the Members. Such person shall be known as a "voting member."

3.3 Voting Rights: The Association shall have two classes of Voting Members.

Class A : Class A members shall be all Owners with the exception of the Developer and each Class A member shall be entitled to one vote for each Townhome Lot owned by him.

Class B: The Class B Member shall be the Developer, who shall at any given time be entitled to four (4) times the number of votes to which the Class A Members shall be entitled at such time. The Developer shall cease to be a Class B member and shall become a Class A Member upon the first to occur of any of the following dates.

(a) The date upon which the Developer and Declarant shall have sold and conveyed title to all of the Townhome Lots.

(b) On December 31, 2012, or

(c) The date upon which the Developer elects to convert its Class B membership to Class A membership by written notice of such election to the Association.

3.4 Qualifications of Board: For a period commencing on the date this Declaration is executed and ending upon the qualification of the directors elected at the initial meeting of voting members, the Developer shall have the right to designate and select the persons who shall serve as members of each Board or exercise the powers of the Board as provided herein. Except for directors so designated by Developer, each member of the Board shall be one of the Owners and shall reside on a Townhome Lot, 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 designated agent of such corporation, partnership, trust, or other legal entity, shall be eligible to serve as a member of the Board, so long as any such agent (other than a person designated by Developer)

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resides on a Townhome Lot.

3.5 Election of Directors: (a) The initial Board of Directors 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 therefore in the office of the Secretary of State of Illinois and ending upon the qualification of the Directors elected at the initial meeting of voting members held as provided in Section 3.6 hereof. At the initial meeting held as provided in Section 3.6 hereof, the voting members shall elect three (3) 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. Each voting member shall be entitled to cast the number of votes specified in Section 3.3 hereof. Members of the Board elected at the initial meeting shall serve until the first annual meeting. At the first annual meeting three (3) Board members shall be elected. 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 one (1) person receiving the next highest number of votes, shall be elected to the Board for a term of one (1) year. The election and term of office as between candidates receiving the same number of votes shall be determined by lot. Upon the expiration of the terms of office of the Board Members so elected at the first annual meeting and thereafter, successors shall be elected for a term of two (2) years each. The voting members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease the term of the office of the Board members at any annual or special meeting, provided that such number shall not be less than three (3) and that the terms of at least one-third (1/3) of the persons on the Board shall expire annually. Vacancies in the Board, including vacancies due to any increase in the number of persons on the Board shall be filled by the majority vote of all remaining Board members. The Board shall act by majority vote of those present at its meeting when a quorum exists. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt. A majority of the total number of members on the Board shall constitute a quorum.

(b) The Board shall elect from among its members a President who shall preside over both its meetings and those of the voting members and who shall be the chief executive officer of the Board and Association, a Secretary who shall keep minutes of all meetings, a Treasurer and such other officers as the Board shall see fit. Except for Directors designated by the Developer, any Board member may be removed from office by the affirmative vote of voting members holding two-thirds (2/3) of the total votes.

3.6 Meetings of Voting Members: (a) Meetings of the voting members shall be held at such places and 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 any 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 upon not less than ten (10)



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days written notice from the Developer. Such notice must be given no later than the earlier of (i) thirty (30) days after the sale and conveyance of title to seventy-five percent (75%) of the Dwelling units which may be constructed by Developer on the Development Site, and (ii) December 31, 2012, but such notice may, at the discretion of the Developer, be given earlier. Thereafter, there shall be an annual meeting of the voting members on or about the second Tuesday of September following such initial meeting and on or about 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 or the voting members holding one-third (1/3) of the total votes.

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

3.7 General Powers of the Board: The Board shall have the following powers:

(a) To adopt rules and regulations governing the use, maintenance and administration of the Townhome Lots, Common Facilities and Dwelling Units for the health, comfort, safety and general welfare of the owners and occupants thereof.

(b) To provide for maintenance, repair and replacement with respect to the Townhome Lots, Dwelling Units and Common Facilities on the terms provided for in Article VIII hereof.

(c) 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 bylaws 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.

(d) To enter upon and to have its contractors, subcontractors and agents enter upon, any Townhome Lot and the exterior of any Dwelling Unit as may be required to exercise all of the rights and obligations 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 an Owner or occupant.

(e) To enter into contracts, maintain one or more bank accounts (granting authority as the Board shall desire to one or more persons to draw upon such accounts), and generally, to have all the powers necessary and incidental to the operation and management of the Association.

(f) To adjust the amount, collect and use any insurance proceeds to repair damaged or replace lost property; and if proceeds are insufficient to repair damaged or replace lost property, to assess the appropriate Members in proportionate amounts to cover the deficiency.

(g) To take such action as may be required to enforce the provisions of this Declaration and the rules and regulations made hereunder.

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(h) To grant non-exclusive easements in respect to, and to dedicate to or as directed by governmental authorities, portions of the Development Site and to execute and cause to be recorded such instruments as may be required in respect thereto.

(i) To borrow money in the name of the Association to provide for the maintenance, repair or replacement of the Common Facilities; provided, however, that the Board shall not secure any such borrowings by encumbering the Common Facilities 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.

(j) To enter into a contract for the management of the Development Site 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 cable television and security services to the Dwelling Units, any such contract shall be cancelable by the Association at the end of three years from the date of recording of this Declaration.

(k) 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.

3.8 Insurance on Common Facilities: The Board shall have the authority to and shall obtain insurance for the Common Facilities as follows:

(a) Comprehensive General Liability insurance covering bodily injury and property damage insuring against hazards of premises/operation, death, personal injury liability (with exclusions (a) and (c) deleted), independent contractors and other extensions as deemed necessary by the Board. Such insurance shall name the Association and any managing agent as insureds, provide limits of liability as deemed desirable by the Board, but in no event for less than One Million Dollars (\$1,000,000.) with respect to each occurrence. Such policy shall be endorsed to cover cross-liability claims of one insured against the other;

(b) Worker's Compensation and Employer Liability as necessary to comply with applicable laws;

(c) Fidelity bond insurance covering any officer, director, managing agent or other person who handles or is responsible for funds of the Association, in an amount necessary to comply with the insurance requirements of the Federal National Mortgage Association; and

(d) Such other insurance, which may include, without limitation, any or all of the following, if and in such amounts as the Board shall deem desirable: directors and officers liability insurance for the officers and directors of the Board of Directors of the Association; medical payments coverage for members of the public (not Owners) injured on the Common Facilities, without regard to liability of the Board or the Association; and non-owned and hired automobile liability coverage.

The premium for the above described insurance shall be paid from the assessments described in Article IV.

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All insurance provided for in this Section 3.8 shall be effected under valid and enforceable policies issued by insurance companies authorized and licensed to transact business in the State of Illinois. If possible, all such policies shall provide a minimum of thirty (30) days advance notice of cancellation in writing to the insureds thereunder and the holder of each first mortgage on a Dwelling Unit if requested in writing by such mortgagee unless such cancellation is for non-payment of premium in which case ten (10) days advance written notice shall be sufficient.

3.9 Liability of the Board of Directors: Neither members of the Board nor the officers of the Association shall be liable by the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Board members and officers except for any acts or omissions found by a court to constitute gross negligence or fraud. The Owners shall indemnify and hold harmless each of the members of the Board and each of the officers of the Association against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board and officers of the Association on behalf of the Owners or arising out of their status as Board members or officers unless any such contract or act shall have been made fraudulently or with gross negligence or contrary to the provisions of this Declaration. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement), reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, in which any member of the Board or officers of the Association may be involved by virtue of such persons being or having been such member or officer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such member or officer, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for gross negligence or fraud in the performance of his duties as such member or officer.

3.10 Books and Records: The books and records of the Association may be examined by any owner and any holder of a first mortgage on a Townhome Lot at the office where such books and records are maintained, during normal business hours, for any proper purpose upon prior, written notice to the Board.

## ARTICLE IV

### Assessments

4.1 Personal Obligation: Each Owner (except for the Developer) by acceptance of a deed for a Townhome Lot, whether or not it shall be so expressed in any such deed, or other conveyance for such Townhome Lot, hereby covenants and agrees to pay to the Association such assessments and fees as are levied pursuant to the provisions of this Declaration and the bylaws of the Association. Such assessments and fees, whether special or otherwise, not paid when due, together with interest thereon at the rate of ten percent (10%) per annum, late fees of \$25.00 per month (or such other amount as the Board shall from time to time determine) and costs of



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collection, including attorneys fees incurred in respect thereto whether or not suit shall be instituted, shall be a charge and a continuing lien upon the Townhome Lot against which such assessment is made. Furthermore, each such assessment, together with such interest, costs, late fees and other fees, shall be the personal obligation of the person who was the Owner of such Townhome Lot on the date upon which such assessment became due. Personal liability for such assessments shall not pass to a bona fide purchaser of a Townhome Lot unless expressly assumed by such purchaser. The Developer, to the extent that it shall be an Owner of a Townhome Lot which is leased to any person, shall, as to each such leased Townhome Lot, be subject to the provisions of this Article from and after the first day of the month in which the Developer first receives rent for such Townhome Lot. Except as provided in the preceding sentence, the Developer shall not be liable for the payment of assessments hereunder and portions of the Development Site owned by the Developer or Declarant shall not be subject to liens hereunder; provided, however, that the Developer shall pay the actual costs incurred by the Association attributable to the maintenance and repair of those portions of the Development Site owned by the Developer or Declarant.

4.2 Purpose of Assessments: The assessments and dues levied by the Association shall be used for the purpose of promoting the health, safety and welfare of the Members of the Association and, in particular, for (a) paying the cost of maintenance and repair of the Common Facilities, including the cost of labor, equipment, services (including utilities and security services, accountants', attorneys' and other professional fees, licenses and permits), and the materials in connection therewith; (b) the establishment of such reasonable reserves, if any, as the Board deems appropriate; (c) the performance of the duties of the Board as set forth in this Declaration and the bylaws of the Association, including the enforcement of the provisions thereof; (d) paying the cost of any maintenance and repair of the exterior of the Dwelling Units and the Townhome Lots to the extent that such costs are not assessed against the particular Owners benefited by such services pursuant to Section 8.3 hereof; and (e) in general, carrying out the purposes of the Association as stated herein and in the Articles of Incorporation of the Association.

4.3 Annual Assessments: Each year on or before December 1, the Board shall estimate the total amount (the "Aggregate Annual Assessment") necessary to provide the materials and services which will be required for the ensuing calendar year in the operation of the Association (which estimate shall include a reasonable amount considered by the Board to be desirable for contingencies and replacements of Common Facilities) and shall notify each member in writing as to the amount of the Aggregate Annual Assessment, with a reasonable itemization thereof and of the amount thereof allocable to such Owner. Each Owner (with the exception of the Developer except as otherwise hereunder provided) shall be allocated that portion of the Aggregate Annual Assessment as shall be determined by dividing the Aggregate Annual Assessment by the total number of Townhome lots on the Development Site. On or before January 1 of the ensuing year, and on the first day of each and every month of said year, each owner, jointly and severally, shall be personally liable for and obligated to pay one-twelfth (1/12) of the portion of the Aggregate Annual Assessment allocated to such owner on or before April 1 of each calendar year following the initial meeting of voting members. The Board shall furnish each Owner with an itemized accounting of the expenses for the preceding calendar year and the amounts collected from the Owners.

4.4 Special Assessments: In addition to the annual assessments authorized pursuant to Paragraph 4.3, 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

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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 month period the sum of \$300 per assessed Townhome Lot, 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 Paragraph 4.5 hereof. Special assessments shall be allocated to each Owner in the same manner as such Owner's respective share of the Aggregate Annual Assessment. The Developer shall be liable for the payment of special assessments on only those Townhome Lots for which the Developer is obligated to pay a regular assessment.

4.5 Notice and Quorum: Written notice of any meeting called for the purpose of authorizing any special assessment requiring approval pursuant to Paragraph 4.4 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.

4.6 Proof of Payment: Upon written demand of an Owner or mortgagee at any time, the Association shall furnish such Owner or mortgagee a written certificate signed by an officer of the Association setting forth whether there are any unpaid annual or special assessments levied against such Owner's Townhome Lot. Such certificate shall be conclusive evidence of payment of any annual or special assessments not stated therein as unpaid.

4.7 Nonpayment of Assessments: Any assessment which is not paid when due shall be deemed delinquent. If an assessment is not paid within ten (10) days after the delinquency date, such assessment shall bear interest at the rate provided in Section 4.1 from the delinquency date and the Board may impose a late fee as provided in Section 4.1. In the event of the failure of any Owner to pay any assessment, maintenance charge, interest charge, late fee or other fees or costs of collection, when due, the amount thereof shall constitute a lien on the Townhome Lot and Dwelling Unit or Units of such Owner. In the event such Owner fails to pay such assessment within thirty (30) days after notice from the Board of such default, the Board may accelerate the maturity of the remainder of the installments of assessments due from such Owner for the balance of the calendar year and may enforce collection thereof. The Board shall, in the name of and on behalf of the Association, have all rights and remedies to enforce such collections as shall from time to time be permitted by law, including bringing an action at law or in equity against such Owner and foreclosing the aforesaid lien. All expenses of the Association in connection with such action or proceedings, whether or not suit shall be instituted, including attorneys' fees and court costs and other fees and expenses shall be charged to and assessed against such Owner (and shall constitute a personal liability of such Owner) and shall be added to and deemed part of his assessments and the Association shall have a lien for all of the same upon the Townhome Lot and Dwelling unit or units of such Owner.

4.8 Subordination of Lien to Mortgage: The lien of the assessments provided for herein shall be subordinate to the lien of any prior, recorded first mortgage or trust deed on a Townhome Lot or portion thereof made to any bank, savings and loan association or other institutional lender except for the amount of any assessments which becomes due and payable from and after the date such lender obtains title to such Townhome Lot pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure. Such transfer of title shall not relieve such Townhome Lot from liability for any assessments thereafter becoming due, nor from the lien

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of any such subsequent assessment.

4.9 Exemption from Assessment on Lots Owned by Developer: In order that those Townhome Lots which are improved with Dwelling Units and conveyed or leased by Developer or its Agents may, with reasonable promptness, receive the benefits of maintenance by the Association for the enjoyment of the residents of the Development Site, 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 Developer may still own a substantial number of unoccupied Townhome Lots, and inasmuch as assessments levied against such Townhome Lots impose a burden on the Developer without the Developer desiring, or receiving the benefits of maintenance upon such Townhome Lots as may from time to time be provided by the Association, it is therefore expressly provided that no Lot or Townhome Lot owned by the Developer shall be subject to the assessments, charges and liens provided for herein until the date upon which such Lot or Townhome Lot 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 Section 3.5, the Developer 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 Developer of a Townhome Lot which was theretofore entitled to the foregoing exemption from assessments, such Townhome Lot and the Owner thereof shall immediately become subject to the payment of all assessments and other charges and the liens provided for herein.

4.10 Initial Assessments: The Developer shall collect from each purchaser of a Dwelling Unit or Units, at the time of closing of the purchase thereof, an amount equal to two times the monthly assessment allocable to such Dwelling Unit. The amounts so collected shall be utilized to fund an operating reserve for the Association.

## ARTICLE V

### Covenants and Restrictions as to Use and Occupancy

5.1 Residential Use: Each Dwelling Unit shall be used for private, residential purposes and no other purposes. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, conducted for profit, altruism or otherwise shall be conducted, maintained or permitted in a Dwelling Unit or on a Townhome Lot unless otherwise allowed by law.

5.2 Leasing: No Dwelling Unit may be leased for "transient purposes. For purposes of this Section 5.2 "transient purposes shall mean for a term of less than six (6) months. All leases shall be in writing and shall require the lessee to observe and comply with the provisions of this Declaration and any rules and regulations from time to time enacted by the Board. Any Owner who leases his Dwelling Unit shall provide the Association, prior to occupancy by a tenant, with (a) a copy of such lease; (b) the names of all persons who will occupy his Dwelling unit; and (c) the

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lessee's telephone number at the Dwelling Unit. The Board may enact reasonable rules and regulations in connection with the leasing of Dwelling Units.

## 5.3 Restrictions: Except for activities of the Developer during original construction:

(a) No animals of any kind shall be raised, bred or kept in or about any Dwelling unit or Townhome Lot except that dogs, cats or other usual household pets may be kept in a Dwelling Unit, subject to rules and regulations from time to time adopted by the Board provided that they are not kept, bred or maintained for any commercial purpose; and further provided that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Development Site upon three (3) days written notice from the Board. Pets shall be leashed at all times when outside any Dwelling Unit and no pet shall be permitted to defecate on any area of the Development Site. Any pet excrement shall be immediately removed from public or private property. Unless permitted by rules and regulations adopted by the Board, pets shall not be walked on any part of the Development Site. No snakes or poisonous insects shall be permitted to be kept in any Dwelling Unit.

(b) No noxious, offensive or illegal activity shall be carried on in or on any Dwelling Unit or Townhome Lot, nor shall anything be done therein or thereon, either willfully or negligently, which may be or become an annoyance or nuisance to the owners or occupants.

(c) No cars, trucks, mobile homes, snow mobiles, buses, commercial vehicles, vans, vehicles not bearing a current license, inoperable vehicles, boats, motorcycles, bicycles, sleds or other recreational vehicles shall be parked on any Townhome Lot, except inside the garage of a Dwelling Unit and except that an operable automobile, mini-van or motorcycle may be parked on the driveway portion of a Townhome lot. No maintenance of any vehicle shall be performed on a Townhome Lot. No vehicle shall be parked on any portion of the driveways unless permitted pursuant to rules and regulations adopted by the Board. The foregoing restriction shall not apply to any trucks or other vehicles owned by the Developer, its contractors, subcontractors, material suppliers, agents and employees which may be parked on any portion of any Lot or Townhome Lot owned by the Developer or the Declarant during the construction and marketing of the Development or necessary to make service calls.

(d) No clotheslines, clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of a Townhome Lot. All rubbish, trash and garbage shall be placed in closed plastic bags, deposited in closed trash receptacles and regularly removed from each Townhome Lot. No burning of trash shall be permitted.

(e) With the exception of machinery, equipment, building materials and supplies and similar items which the Developer may store or permit to be stored upon any Lot or Townhome Lot owned by the Developer or Declarant during construction and marketing of Dwelling Units, no machinery, equipment, building materials and supplies or similar items may be stored, kept or maintained on any part of a Townhome Lot. No lawn furniture, swingsets or other recreational or playground equipment or barbecues may be placed or used on any part of a Townhome Lot. No basketball nets shall be permitted on the exterior of any Dwelling Unit. No swimming pools other than portable, non-permanent children's wading pools shall be permitted on any Townhome Lot.

(f) All exterior lighting and seasonal lighting and decorating shall be subject to rules, regulations and limitations of the Board and all seasonal lighting and decorating shall be removed

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no later than thirty (30) days after the close of the holiday.

(g) No radio or television antennas or dishes shall be affixed to or placed in, through or upon the exterior walls, roof, or windows of a Dwelling Unit or shall be installed on any exterior part of a Townhome Lot without the prior written approval of the Board. No short-wave radio or other type of radio transmitter shall be permitted in or about any Dwelling unit which may interfere with the radio or television reception in any Dwelling Unit without the prior written approval of the Board.

(h) No window air conditioning units shall be installed in any Dwelling unit without the prior written approval of the Architectural Control Committee. No window air conditioning unit shall be installed on the front or sides of any Dwelling unit. Window air conditioning units shall be neat, properly maintained and in keeping with the character of the community and shall be allowed only between May 1 and September 30 of each year.

(i) No sheds, storage buildings, tanks or other temporary structures of any kind shall be erected on any part of a Townhome Lot. Garages, if any, shall be used for storage of vehicles as permitted herein and for no other purpose including the making of mechanical repairs to vehicles. Garage doors, if any, shall remain closed to the extent possible.

(j) No Owner shall be permitted to alter the grading of his Townhouse Lot from the grading originally installed by the Developer. No Owner shall alter the landscaping originally furnished to his Townhome Lot by the Developer or remove or add any shrubbery, trees, gardens or other plants, rock gardens, fountains or other elements of landscaping without the prior approval of the Architectural Control committee. No modifications in the color, materials or otherwise of the exterior of a Dwelling Unit or Townhome Lot from that originally furnished by the Developer shall be permitted without the approval of the Architectural Control committee.

(k) No sign, billboard, or other advertising device of any character shall be erected or maintained upon any part of a Townhome Lot or on any lot therein, excepting by the Developer. One "For Sale" sign containing no more than three (3) square feet may be exhibited on a Townhome Lot in such locations as shall be approved by the Board but in no event in a window.

(l) Other than fences originally installed by the Developer, if any, no fence shall be commenced, erected or maintained on a Townhome Lot without the prior approval of the architectural Control Committee. No fence may be erected that differs in design, material, color or height from the fence installed by the Developer.

(m) No exterior addition to or exterior change or alteration in a Dwelling Unit including, but not limited to, storm doors and windows, railings, flowerboxes, benches, shutters and seal coating of driveways shall be made without the unanimous approval of the Architectural Control Committee. Any such exterior addition to or exterior change or alteration to a Dwelling Unit approved by the Architectural Control Committee shall be of color, design, material and construction equal to that of the Dwelling Unit as originally constructed, shall comply with all applicable building, zoning and fire laws, statutes and ordinances and any other requirements of the City of Chicago and shall be performed in a good and workmanlike manner, and shall harmonize, to the satisfaction of the Architectural Control Committee as to design, color, location and size, with surrounding structure and topography.

(n) Garbage cans or bins shall not be placed out of doors for pick up until the night before



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pick up and shall be placed indoors the same day pick up is made.

(o) All exterior and seasonal lighting and decorating shall be subject to rules and regulations of the Board and shall be removed no later than thirty (30) days after the close of the holiday.

5.4 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:

(a) to enter upon that part of the Development Site 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 its beneficiaries, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or

(b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or

(c) to levy fines in such reasonable amounts and pursuant to such procedures for hearings and appeals as the Board shall from time to time determine.

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 rate of ten percent (10%) per annum until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his respective share of the expenses of the Association, and the Association shall have a lien for all of the same upon the Townhome Lot of such defaulting Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Dwelling Unit or located elsewhere on his Townhome Lot. 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.

## ARTICLE VI

### Architectural Control Committee

6.1 Membership: The Architectural Control Committee shall consist of three persons who shall be appointed by the Board. Until the initial meeting of voting members, the Developer shall designate the members of the Architectural Control Committee. Thereafter, until the Developer shall have sold and conveyed title to all Townhome Lots in the Development Site, the Developer shall designate one member of the Architectural Control Committee and the two remaining members shall be appointed by the Board. Upon the sale and conveyance by the Developer of all of the Townhome Lots, all three members shall be appointed by the Board. Except for members designated by the Developer, each member of the Architectural Control Committee shall be an Owner and shall reside on a Townhome Lot.

6.2 Powers and Duties: The Architectural Control Committee shall have the following powers and duties:

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(a) to review requests by Owners for approval of any exterior Addition to or modification or alteration to a Dwelling Unit or other matter described in this Declaration as requiring approval of the Architectural Control Committee and, subject to final approval by the Board, to render decisions thereon;

(b) to propose to the Board rules, regulations and procedures concerning exterior maintenance, repair, landscaping, fences, trash removal and the enforcement of the provisions of this Declaration in relation thereto;

(c) such other powers and duties as the Board shall from time to time delegate.

6.3 Procedures: Any matter requiring the approval of the Architectural Control Committee shall be submitted to the Architectural Control Committee in writing and, if approval of any alteration or addition to a Dwelling Unit or Townhome Lot shall be requested, shall include preliminary design drawings, plans and specifications, elevations, landscaping schemes and descriptive materials showing the size, color, design, configuration, height, shape and materials of such alteration or addition.

Within thirty (30) days after receipt of all necessary documentation, the Architectural Control Committee shall advise such Owner and the Board in writing:

(a) Whether such Owner's request has been approved or denied and if denied, the specific reasons therefor; or

(b) Whether the Architectural Control Committee requires additional information, plans or other materials to render a decision, in which case such additional items shall be furnished as expeditiously as possible.

If additional items shall be required pursuant to subsection (b) above, within a reasonable period of time not exceeding thirty (30) days from the date of receipt of all such items, the Architectural Control Committee shall advise such Owner and the Board in writing whether such Owner's request has been approved or denied and if denied, the specific reasons therefor. If such Owner's request for approval shall have been denied, such Owner shall have the right to appeal the decision of the Architectural Control Committee to the Board pursuant to Section 6.4 hereof.

6.4 Right of Appeal: Any adverse decision of the Architectural Control Committee may be appealed to the Board, which shall render a final decision as to the matter in question. An Owner desiring to appeal shall so advise the Board in writing. The Board shall consult with the Architectural Control Committee and such Owner, shall review the plans and other materials submitted by such Owner and shall render a written decision as to the matter under consideration as expeditiously as practical. In rendering its decision, the Board shall take into consideration the criteria set forth in Sections 5.3 (m) and 6.5, the manner in which the Architectural Control Committee has applied such criteria to the matter under review and such other factors as the Board deems relevant in respect to the overall enhancement of the value and desirability of the Townhome Lots and Development Site.

6.5 Review Criteria: In evaluating requests by Owners for approvals required of the

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Architectural Control Committee hereunder, the factors to be considered by the Architectural Control Committee shall include those set forth in Section 5.3(m) and the following:

(a) the architectural integrity and compatibility of any proposed exterior modification to a Dwelling Unit with the design, color scheme and materials of such Dwelling Unit as originally constructed, in regard to which the Architectural Control Committee shall not have the authority to approve an exterior alteration or addition that:

(i) changes color schemes or architectural styles from those originally constructed by the Developer;

(ii) substitutes materials of lesser quality than those originally furnished by the Developer; or

(iii) results in a change in the grade of a Townhome Lot or the elevation, size or basic exterior design as to door and window placement from that originally provided by the Developer.

(b) the aesthetic effect of any proposed modification of landscaping, exterior fences or exterior lighting, and

(c) such other factors as the Architectural Control Committee deems relevant in assessing the overall effect of the Owner's request upon the maintenance and operation of the Parcel.

6.6 Final Board Approval: There is hereby reserved to the Board the power to reverse a decision of the Architectural Control Committee, whether approving or denying an Owner's request, if, in the Board's judgment, which shall not be subject to challenge or review, the Architectural Control Committee, in rendering such decision, has failed to correctly apply the criteria set forth in sections 5.3 (m) and 6.5.

## ARTICLE VII

### Party Walls

7.1 General Rules of Law to Apply: Each wall and fence which is built as part of the original construction of a Dwelling Unit (or as reconstructed following fire or other casualty) which is located on the boundary line between separate Townhome Lots, 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.

7.2 Sharing of Repair and Maintenance: The cost of reasonable repair and

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maintenance of a party wall and fence shall be shared by the owners who make use of the wall in proportion to such use.

7.3 Destruction by Fire or Other Casualty: If a party wall or fence is destroyed or damaged by fire or other casualty, either owner may restore it, and if the other Owner thereafter makes use of the wall or fence, he shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

7.4 Weatherproofing: Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection against such elements.

7.5 Right to Contribution Runs with Land: The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

## ARTICLE VIII

### Insurance and Exterior Maintenance

8.1 Insurance: Each Owner shall maintain in full force and effect, with a company licensed to conduct business in the State of Illinois, a policy of insurance covering his Dwelling Unit against loss or damage by fire and against loss or damage by occurrences now or hereafter embraced by standard extended coverage and vandalism and malicious mischief in one hundred percent (100%) of the full insurable replacement cost of such Dwelling Unit. Each Owner shall deliver to the Board a certificate of insurance confirming that such insurance is in effect and a certificate for all renewals thereof. In the event of the failure of an Owner to maintain the insurance required herein, the Association shall have the right, but not the obligation, to obtain such insurance in the name of such Owner and to add the cost thereof to the assessments due from such Owner.

8.2 Maintenance by Association: The Association shall be responsible for:

- (a) maintenance, repairs and replacement of the Common Facilities,
- (b) to the extent not maintained by any utility company, maintenance, repair and replacement of all sewer and water lines up to the point of entry to a Dwelling Unit.

8.3 Exterior Maintenance and Repair of Dwelling Units: Each Owner shall maintain in first class condition and repair all exterior portions of Dwellings Units not maintained by the Association. In the event any Owner fails to maintain or repair his Dwelling Unit or Townhome Lot as aforesaid, the Association shall have the right, but not the obligation, to enter upon such Owner's Townhome Lot and Dwelling Unit to perform such maintenance or repair and such 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 Unit Owners benefited thereby and shall be added to the

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assessment payments due from such Owners and shall bear interest and constitute the personal liability of such Owner and shall be a continuing lien on such Owner's Townhome Lot and Dwelling Unit enforceable as provided in Article IV hereof.

8.4 Damage or Destruction: In the event of any damage to a Dwelling Unit by fire or other casualty, the Owner of such Dwelling Unit shall repair, restore and rebuild the portion of such Dwelling Unit so damaged or destroyed to its original condition as near as possible, immediately preceding such fire or other casualty as rapidly as possible but in all instances within 120 days after the occurrence of such damage, unless prevented by inclement weather or other causes beyond such Owner's reasonable control, in which event reconstruction shall be completed within 180 days after the occurrence of such damage. Should such owner fail to reconstruct such Dwelling Unit as aforesaid, the Association may undertake to do such construction as it deems necessary, and to charge such Owner the costs thereof. Any amounts so charged to a Unit Owner shall bear interest and constitute a lien in the same manner as provided in Section 8.3 hereof.

## ARTICLE IX

### Rights Reserved to Developer

9.1 Developer's Promotional Rights: The right is reserved to the Developer to place and maintain on any area of the Parcel or Development Site, with the exception of a Townhome Lot 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 Dwelling Units, construction 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 Parcel and Development Site for such sales and leasing purposes. The Developer also reserves the right to maintain on the Parcel without charge (a) 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 Dwelling Units on any portion of the Development Site.

9.2 Developer's Easements: The Declarant reserves unto itself and the Developer a non-exclusive easement to, through, over, under and across the Development Site and all portions thereof for the purpose of exercising the rights reserved to the Developer /Declarant to this Declaration, and for the purpose of implementing the overall development of the Development Site, including, without limitation, the planning, construction, marketing, financing, management and maintenance of improvements in any portion of the Development Site. Such easement shall continue for a period of ten (10) years from the date of this Declaration unless Developer, by written notice to the Association, elects to terminate such rights prior to such date. All rights and easements in favor of the Owners created by this Declaration shall be subject and subordinate to the aforescribed development rights and easements of Developer, whether or not inconvenience to any owner shall result therefrom. The rights and easements reserved pursuant to this Section 9.2 and Section 9.3 shall inure to the benefit of the Developer, the Declarant, their



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respective successors and assigns, including any successor to or assignee of the Developer's rights under this Declaration.

9.3 Right of Developer to Make Dedications to Grant Utility Easements: As used in this Paragraph 9.3, the term "utilities" means all public and private utility conduits, wires, ducts, pipes, cables and other lines, and all associated equipment, which serve the Development Site, including, without limitation, those for the transmission and/or distribution of water, electricity, gas, telephone, sewage, drainage and television and other electronic signals. Said term also includes all standpipes, hydrants, pumps, equipment vaults and other structures and facilities for the provision of fire protection services.

Declarant and Developer hereby reserve the following rights and easements:

(a) To dedicate streets and street lights, walks, malls, parkways, parkland, drives, open space and water rights to any governmental authority and to make such other dedications as may be required to implement the ordinances of any governmental authority from time to time applicable to the Parcel or Development Site and to the public improvements therein.

(b) To dedicate space in the Development Site or any portion thereof to any public or quasi-public utility or to any governmental authority for the location of utilities serving any portion of the Development Site.

(c) To reserve or grant easements in, over, under, to and across the Development Site or any portion thereof for ingress and egress to, and for installation, construction and maintenance of, any or all of the utilities.

(d) To record plats of subdivision and resubdivision of portions of the Development Site.

Any rights hereby reserved to the Developer and Declarant, to the extent affecting the Development Site or Common Facilities, may be assigned and transferred by the Declarant and Developer to any successor developer or to the Association by an instrument in writing, executed by the Declarant and Developer and recorded in the office of the Cook County Recorder of Deeds, following which the rights so assigned and transferred shall be exercised by such successor developer or the Association as the case may be. Until Developer's rights under Paragraph 9.2 hereof are terminated, Developer shall have the right to tap into all utilities for the purpose of exercising all such rights.

9.4 Right of Developer to Grant Additional Easements. Declarant and Developer hereby reserve the following rights:

(a) To reserve or grant easements for pedestrian and vehicular access, ingress and egress over and across that portion of the Development Site necessary to provide owners of Townhome Lots and neighboring property owners with common access to alleys, driveways and or walkways adjacent to or part of the Development Site.

9.5 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 and security system, any such contracts

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shall be subject to Section 3.7 (j) hereof.

## ARTICLE X

### First Mortgagee's Rights

10.1 First Mortgagees' Consent: The prior written approval of two-thirds (66-2/3%) of the holders of the first mortgages on Dwelling Units will be required for the Association to do or permit to be done any of the following:

(a) Adoption of an amendment to this Declaration which changes any provision of this Declaration which specifically grants rights to holders of first mortgages or which changes the provisions of Section 3.8 or Article VIII of this Declaration; or

(b) The removal of the Parcel from the provisions of this Declaration.

10.2 Notice to First Mortgagees: Each Owner shall notify the Association of the name and address of his first mortgagee, and the Association shall maintain a record of such information with respect to all Dwelling Units. Each first mortgagee, upon prior written request, shall have the right to examine the books and records of the Association at the place where such books and records are maintained, at any reasonable time, upon prior written request. Upon the specific written request of a first mortgagee to the Board the first mortgagee shall receive some or all of the following designated in the request:

(a) Notice of the decision of the Owners to make any material amendment to this Declaration;

(b) Notice of substantial damage to or destruction of any Dwelling Unit or condemnation thereof (in excess of \$5,000) or any part of the Common Facilities (in excess of \$5,000);

(c) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Common Facilities;

(d) Notice of any default in payment of assessments by the Owner of the Dwelling unit which is subject to the first mortgagee's mortgage, when such default is not cured by the Owner within 60 days after the giving of notice by the Association to the Owner of the existence of the default;

(e) Any lapse or cancellation of any insurance coverage required to be maintained by the Association; or

(f) Any proposed action that requires the consent of a specified percentage of holders of first mortgages.

The request of the first mortgagee shall specify which of the above it desires to receive and shall indicate the address to which notices or documents shall be sent by the Association. Failure of the Association to provide any of the foregoing to a first mortgagee who has made a proper request therefor shall not affect the validity of any action which is related to any of the

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foregoing. The Association need not inquire into the validity of any request made by a first mortgagee hereunder and in the event of multiple requests from purported first mortgagees of the same Dwelling Unit, the Association shall honor the most recent request received.

## ARTICLE XI

### General

11.1 Amendment by Declarant: Until the initial meeting of voting members, the Declarant, the Developer or their successors and, or assigns shall have the right to change or modify this Declaration; provided, however, that the provisions of Section 4.8 shall not be amended or modified without the consent of one hundred percent (100%) of the mortgagees holding first mortgages on Townhome Lots; and provided that except as provided in section 11.3, such amendment shall be executed only to (i) comply with the requirements of the Federal Home Loan Mortgage Corporation, the Veterans Administration, the Federal National Mortgage Association, the Federal Housing Authority, The City of Chicago or any of its Departments or Bureaus or any similar entity, (ii) to comply with any statutes, laws or ordinances, or (iii) to correct clerical, typographical or surveyor errors. In furtherance of the foregoing, a right 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 Townhome Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of and a covenant and reservation of the power of the Declarant as aforesaid. Such amendment shall become effective upon recording in the office of the Recorder of Deeds of Cook County, Illinois.

11.2 Severability: Invalidation of all or any portion of any of the covenants, restrictions, easements, conditions, reservations, liens and charges imposed by this Declaration, any legislation, judgment or court order shall in no way affect any other provisions of this Declaration, all of which shall remain in full force and effect.

11.3 Amendment: The provisions of this Declaration may be amended by an instrument executed and acknowledged by the Board and approved by the owners of not less than three-fourths (3/4) of the Townhome Lots which are subject to the provisions of this Declaration, and containing an affidavit by an officer of the Board certifying that a copy of the amendment has been mailed by certified mail to all mortgagees having bona fide liens of record against any Townhome Lot, not less than five (5) days prior to the date of such affidavit. No amendment affecting the right of the holder of any first mortgage or trust deed on a Townhome Lot shall be made without the consent of such mortgagee or holder. No amendment shall be effective unless recorded in the office of the Recorder of Deeds of Cook County, Illinois. Those provisions of this Declaration relating to the rights, privileges or obligations of the Declarant or the Developer may only be amended upon the prior written consent of the Declarant or Developer. This Declaration may be amended by Declarant or Developer in any manner prior to the conveyance by Developer of any Townhome Lot to any other owner.

11.4 Enforcement: Enforcement by the Association or any Owner of the covenants and restrictions contained in this Declaration shall be had by any proceeding at law or in equity

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against any person or persons violating or attempting to violate any such 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 owner to enforce any covenant or restriction shall in no event be deemed a waiver of the right to do so thereafter.

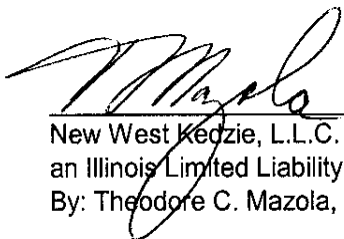
11.5 Notices: Any notice required to be sent to any Member of the Association or to an Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Member or Owner as it appears on the records of the Association at the time of such mailing.

11.6 Title holding Land Trust: In the event title to any Townhome Lot is conveyed to a title holding trust, under the terms of which all power of management, operation and control of such Townhome Lot is vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Townhome Lot. No claim shall be made against any such title holding trustee personally for payment of any lien or obligations hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon such Townhome Lot and the beneficiaries of such trust notwithstanding any transfer of the beneficial interest of any such trust or any transfers of title to such Townhome Lot.

11.7 Duration: The covenants, restrictions, conditions, reservations, liens and charges imposed or established by or created under this Declaration shall run with and bind the land for a period of forty (40) years from the date of the recording of this Declaration and may be enforced by the Association or any Owner through any proceeding in law or in equity. Failure by the Association or any Owner to so enforce shall in no event be deemed a waiver of the right to do so thereafter. After the expiration of said forty (40) year period, all of such covenants, restrictions, conditions, reservations, liens and charges shall continue to run with and bind the land for successive periods of ten (10) years each unless revoked, changed or amended in whole or in part, by an amendment in writing which is executed by the Owners or not less than two-thirds of the Townhome Lots and recorded in the office of the Recorder of Deeds of Cook County, Illinois. Except in case of condemnation or destruction of a substantial portion of the Dwelling Units, the legal status of the Association shall not be terminated without the affirmative vote of not less than 67% of the holders of first mortgages on the Dwelling Units.

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

IN WITNESS WHEREOF, the Declarant hereto has caused these presents to be signed by its proper officers on the day and year first above written.



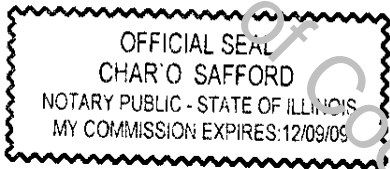
\_\_\_\_\_  
New West Kedzie, L.L.C.  
an Illinois Limited Liability Company  
By: Theodore C. Mazola, Managing Member

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STATE OF ILLINOIS)  
) SS.  
COUNTY OF COOK)

I, CHAR'O SAFFORD, a notary public in and for said county in the state aforesaid, do hereby certify that New West Kedzie, L.L.C., an Illinois Limited Liability Company, by Theodore C. Mazola, its Managing Member, personally appeared before me this date in person and signed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 1st day of December, 2007.



Char'o Safford  
Notary Public



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EXHIBIT "A"

Legal Description

THE SOUTH 17 FEET OF LOT 21 AND ALL OF LOTS 22, 23, 24 AND 25 AND THE NORTH 8 FEET OF LOT 26, IN BLOCK 2 IN GEORGE K. SHOENBERGER'S SUBDIVISION OF THE EAST 1/4 OF THE NORTH 40 RODS OF THE SOUTHEAST 1/4 OF SECTION 14, AND THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 13, ALL IN TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID GEORGE K. SHOENBERGER'S SUBDIVISION RECORDED JULY 1, 1892 AS DOCUMENT NO. 1693999, IN COOK COUNTY, ILLINOIS.

PINS: 16-03-304-002 Vol. 516  
16-13-304-003 Vol. 516  
16-13-304-004 Vol. 516

Cook County Clerk's Office

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Doc#: 0733815134 Fee: \$138.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 12/04/2007 03:11 PM Pg: 1 of 25

**EXHIBIT**

**ATTACHED TO**

0733815134

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+1

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138



12-04-07

**DOCUMENT**

**SEE PLAT INDEX**

Property of Cook County Clerk's Office