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**DECLARATION**

**OF**

**PARTY WALL RIGHTS, COVENANTS,**

**CONDITIONS, RESTRICTIONS AND**

**EASEMENTS FOR**

**PALOS LANDINGS TOWNHOMES**

121<sup>00</sup>/<sub>5/1</sub>

THIS INSTRUMENT PREPARED BY  
AND UPON RECORDING MAIL TO:

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**DECLARATION  
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PARTY WALL RIGHTS, COVENANTS,  
CONDITIONS, RESTRICTIONS AND  
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THIS DECLARATION is made and entered into on the date hereinafter set forth by COLE TAYLOR BANK, not personally but solely as Trustee under Trust Agreement dated October 2, 1990 and known as Trust No. 99-2065 (hereinafter referred to as "Declarant").

**W I T N E S S E T H:**

**WHEREAS**, Declarant is the owner and legal title holder of certain real estate in the County of Cook, in the State of Illinois which real estate is legally described in Exhibit "A" attached hereto and by this reference made a part hereof; and

**WHEREAS**, the beneficiaries of the Declarant presently intend to market a development containing Townhouse Units, as hereinafter defined, together with certain common areas which will require uniformity and continuing care and maintenance for the privacy, benefit and enjoyment of all persons owning and residing in the Townhouse Units; and

**WHEREAS**, the beneficiaries of the Declarant have deemed it desirable for the efficient preservation of the values and amenities of the proposed development to create an agency to which shall be delegated and assigned the powers of maintaining and administering the Common Area, as hereinafter defined, and administering and enforcing the covenants and restrictions hereinafter contained and created; and

**WHEREAS**, there has been incorporated under the laws of the State of Illinois, as a not for profit corporation, the Palos Landings Townhouse Association for the purpose of exercising the functions aforesaid; and

**WHEREAS**, the Declarant desires to establish for its own benefit and the mutual benefit of all future owners, tenants and occupants of the aforesaid development and real estate and any part thereof, certain easements or rights in, over, under, upon, along and across said development and real estate and certain mutually beneficial restrictions and obligations with respect to the use, conduct and maintenance thereof;

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NOW, THEREFORE, the Declarant hereby declares that only the real estate described in Exhibit "A" and such additions thereto as may hereafter be made is and shall be transferred, held, sold, conveyed and accepted subject to this Declaration of Party Wall Rights, Covenants, Conditions, Restrictions and Easements. The Declarant does hereby further declare that the following easements, covenants, restrictions, conditions and burdens, uses, privileges, charges and liens shall: (1) exist at all times hereafter amongst all parties having or acquired right, title or interest in any portions of the real estate; (2) be binding upon and inure to the benefit of each Owner (as hereinafter defined); and (3) run with the land subjected to this Declaration, to be held, sold and conveyed subject thereto.

## ARTICLE I

### DEFINITIONS

Section 1.01. "Association" shall mean and refer to Palos Landings Townhouse Association, a corporation existing under the General Not For Profit Corporation Act of the State of Illinois.

Section 1.02. "Property" shall mean and refer to that certain real estate described in Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 1.03. "Common Area" shall mean all portions of the Property intended for the common and exclusive use and enjoyment of all members of the Association and such uses thereto by way of easement or other grant as may be granted for the common and exclusive use and enjoyment of the Owners. The Common Area is hereafter legally described in Exhibit "B" attached hereto and by this reference made a part hereof and shall include such additions thereto as may hereafter be brought within the jurisdiction of the Association. The Common Area shall generally include open space, driveways, walkways and green areas, and shall not include any Assessment Parcels or Townhouse Units.

Section 1.04. "Townhouse Unit" shall mean a residential housing unit consisting of a group of rooms which may be attached to one or more other Townhouse Units by common party walls and which are designed or intended for the exclusive use as living quarters for one Family, as hereinafter defined, as located upon the Property.

Section 1.05. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Assessment Parcel, as hereafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include the beneficiaries of the Declarant to the

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extent of the number of Assessment Parcels owned by Declarant and also includes the interest of said beneficiaries or of Declarant as contract seller of any Assessment Parcel.

Section 1.06. "Member" shall mean and refer to any person or entity who holds membership in the Association.

Section 1.07. "Declarant" shall mean and refer to COLE TAYLOR BANK, solely as Trustee as aforesaid, its successors and assigns.

Section 1.08. "Assessment Parcel" shall mean and refer to a portion of the Property, designated as such in any recorded or unrecorded Assessment Plat of any portion of the Property and upon which a Townhouse Unit is constructed.

Section 1.09. "Board" shall mean 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.

Section 1.10. "Occupant" shall mean any person or persons other than the Owner in possession of a Townhouse Unit.

Section 1.11. "Family" shall mean one or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than three (3) persons not all so related, together with his or their domestic servants, maintaining a common household in a Townhouse Unit.

Section 1.12. "Bylaws" shall mean the Bylaws of the Palos Landings Townhouse Association, a copy of which is attached as Exhibit "C" hereto and by this reference made a part hereof.

Section 1.13. "Adjoining Parcel" shall mean that portion of the additional lands immediately adjoining the Property, and legally described as Exhibit "D" attached hereto and by this reference made a part hereof which Declarant may elect to annex to the Property pursuant to the terms of Article XII hereof.

## ARTICLE II

### MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Assessment Parcel which is subject by covenants of record to assessment by the Association, including a contract seller, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Assessment Parcel which is subject to assessment by the Association. Ownership of such Assessment Parcel shall be the sole qualification of membership. Nothing herein contained shall



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be interpreted to exclude Declarant from membership while it or its successor in interest, if any, owns one or more Assessment Parcels. Voting rights with regard to each Member are set forth in Article III hereof.

## ARTICLE III

### VOTING RIGHTS AND BOARD OF DIRECTORS

Section 3.01. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all those owners as defined in Article II, with the exception of the Declarant. Class A Members shall be entitled to one vote for each Assessment Parcel in which they hold the interest required for membership by Article II. When more than one person holds such interest in any Assessment Parcel, all such persons shall be Members. The vote for such Assessment Parcel shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Assessment Parcel.

Class B. The Class B Members shall be the beneficiaries of the Declarant. The Class B Members shall be entitled to three (3) votes for each Assessment Parcel in which it holds the interest required for membership by Article II, provided that the Class B membership shall cease and be converted to Class A membership on the date which is three (3) years from the recording date of this Declaration. In the event additional property is annexed pursuant to the provisions of Article XII hereof, the three (3) year period shall be applicable from the date Declarant records the Supplementary Declaration(s) annexing such property provided, however, that such Supplementary Declaration(s) are recorded within the initial three (3) year period.

Section 3.02. The provisions of Section 3.01 hereof shall be mandatory. No owner of any interest in any Assessment Parcel shall have any right or power to disclaim, terminate or withdraw from his membership in the Association or any of his obligations as such Member, and no purported disclaimer, termination or withdrawal thereof or therefrom on the part of any such owner shall be of any force and effect for any purpose.

Section 3.03. The Association shall have a Board of five (5) directors who shall be elected by the Members of the Association at such intervals as the corporate charter and Bylaws of the Association shall provide, except the vacancies in the Board occurring between regularly scheduled meetings of the Members may

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be filled by the Board if so provided by the corporate charter or Bylaws and that the first Board may be appointed by the Declarant (or its beneficiaries or designee) and shall be three (3) in number. The Association shall have such officers as shall be appropriate from time to time who shall be elected by the Board who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly otherwise provided by the charter or Bylaws, all power and authority to act on behalf of the Association both pursuant to this Declaration and otherwise shall be vested in its Board from time to time and its officers under the direction of the Board, and shall not be subject to any requirement of approval on the part of its Members. The corporate charter and Bylaws of the Association may include such provisions for the indemnification of its officers and directors as shall be permissible by law.

Section 3.04. The Association, being a Not For Profit corporation, shall not distribute to its Members any sums in the nature of dividends upon its shares. To the extent that funds shall not be required for current expenditures or for such reserves, the next monthly assessments may, in the discretion of the Board, be eliminated or the amount thereof appropriately reduced. Such reduction shall not prevent reinstatement of or increase in such assessments when required, but such reinstatement or increase shall not be retroactive.

Section 3.05. Whenever possible, the Association shall perform its functions and carry out duties by entering into agreements for the performance thereof with such persons and business entities regularly engaged in the performance of generally similar functions and duties as the Board shall determine, which agreements shall be for such length of time, at such rates of compensation and upon such other terms and provisions as the Board shall determine from time to time. Such persons or business entities may, but need not, be persons or business entities owning or otherwise directly or indirectly interested in the Property or any part thereof. The Association itself shall also have power to perform its functions and carry out its duties.

Section 3.06. The Association, through the resolutions of the Board, shall have the right to adopt rules and regulations governing the Assessment Parcels and the use thereof.

Section 3.07. The books and records to be kept by the Board shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, or any holder of a first mortgage lien on an Assessment Parcel at such reasonable time or times during the normal business hours as may be requested by the Owner or by the holder of said first mortgage lien.

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## ARTICLE IV

### PROVISIONS RELATING TO THE COMMON AREA

Section 4.01. Every Member shall have a perpetual right and non-exclusive easement in, over, upon, along, across and to the Common Area for ingress and egress and use of the open spaces and other common facilities and the Common Area shall be for the common use and enjoyment of each Member, and such easement shall be appurtenant to and shall pass with the title to every Assessment Parcel subject to the following provisions:

(a) The right of the Association on behalf of the Members to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes to the Class B membership, if any, has been recorded, agreeing to such dedication or transfer. In the event Class B membership has ceased, then two-thirds (2/3) of the votes of the Class A membership shall be required to make such dedication or transfer effective.

(b) As part of the overall program of development of the Property into a residential community and to encourage the marketing thereof, the beneficiaries of the Declarant and its contractors, subcontractors, and their respective agents and employees shall, for sales and construction purposes only, have the right of use of certain Assessment Parcels and the Common Area and facilities thereof without charge during the sales period on the Property to aid in its marketing.

Section 4.02. There shall be upon the Common Area such driveways or portions thereof and walks as shall be necessary to provide ingress and egress to and from the Assessment Parcels for the use and benefit of the Owners of the Assessment Parcels and their guests and invitees, and such landscaping, and walks, benches and spaces for the parking of motor vehicles as the beneficiaries of the Declarant shall from time to time determine and shall be in compliance with such governmental laws, ordinances and regulations as shall be in effect during the development of the Property. The use of driveways and parking spaces in the Common Area shall be regulated by the Association. There may also be upon the Common Area such facilities for the housing of tools, vehicles and equipment, and such other structures and facilities as shall be reasonably necessary for the carrying out of the duties imposed upon the Association hereunder, or as the Association may determine to erect from time to time.

Section 4.03. There may be upon the Common Area fences of such design as the Association shall determine from time to time, and as shall be in conformity with all applicable governmental

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laws, ordinances and regulations.

Section 4.04. Any Member may delegate, in accordance with the Bylaws, his right of ingress and egress to the Common Area to the members of his family, occupants, guests, invitees, or contract purchasers who reside on the Property.

Section 4.05. Each Owner shall be entitled to an undivided percentage ownership interest in the Common Area. The percentage interest of each Owner shall be equal to the percentage interest of every other Owner. Each of such ownership interests in the Common Area shall be an undivided interest, and the Common Area shall be owned by the Owners as tenants in common in equal shares. The ownership of each Assessment Parcel shall not be conveyed separate from the percentage of ownership in the Common Area corresponding to said Assessment Parcel. The undivided percentage of ownership in the Common Area corresponding to any Assessment Parcel shall be deemed conveyed or encumbered with that Assessment Parcel, even though the legal description in the instrument conveying or encumbering said Assessment Parcel may refer only to the fee title to that Assessment Parcel.

Section 4.06. Declarant, its beneficiaries, agents, employees, guests and invitees shall have the right and easement of ingress and egress in, over, under, upon, along and across the Common Area for sales and construction purposes until Declarant has conveyed all of the Assessment Parcels to the purchasers thereof.

Section 4.07.

(a) The Association shall have the right and duty to build, construct, reconstruct, repair and maintain the Common Area.

(b) The Association shall have the right of ingress and egress over and upon the Common Area for any and all purposes connected with the use, maintenance, construction, operation, repair and reconstruction of the Common Area.

(c) The Association, through resolutions of the Board, shall have the right to adopt rules and regulations governing the use, maintenance and administration of the Common Area and for the health, comfort, safety and general welfare of persons using the Common Area.

Section 4.08. Notwithstanding any provisions herein to the contrary, the easements hereinafter created shall be subject to:

(a) The right of 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.

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(b) Easements of record on the date hereof, and any easements which may hereafter be granted by Declarant to any public utilities or governmental bodies for the installation and maintenance of electrical and telephone conduit and lines, gas pipes, sewers or water mains and pipes, or any other utility services serving any Assessment Parcel.

Section 4.09. Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Area to or for any public use or purpose whatsoever.

Section 4.10. The Common Area will be subject to utility easements for sanitary and storm sewers, water, gas, electricity, telephone and any other necessary utilities. If any such utilities are not installed or any easements not created for same prior to conveyance of the Common area, the Association shall grant such easement or easements upon request of the Declarant or upon its own resolution for the proper operation of the Property. The conveyance by Declarant of the Common Area, and future additions thereto, is subject, without further reference in any such conveyance, to a reservation in favor of Declarant that it shall have the right thereafter to create such easements. Illinois Bell Telephone Company, Commonwealth Edison Company, Northern Illinois Gas Company, and all other public and private utilities serving the Property are hereby granted the right to lay, construct, renew, operate and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through the Common Area and those portions of Assessment Parcels which are not improved with Townhouse Units for the purpose of providing utility services to the Property or any other portion of the Development Area.

Section 4.11. In the event that, by reason of the construction, reconstruction, repair, movement, settlement or shifting of any structures located on the Property, any such structure encroaches or shall hereafter encroach upon any portion of the Property which is not owned by the owner of the encroachment, valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of the owner of such encroachment; 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 Property burdened thereby and if incurred due to the willful conduct of the owner of such encroachment.

Section 4.12. Each Townhouse Unit shall be serviced by common water and sanitary sewer lines which shall be used in common with other Townhouse Units. There shall exist a common way easement in and through each Assessment Parcel through which such lines pass in favor of the Association and all Owners deriving water or sanitary sewer service therefrom. Such common lines shall be deemed part of the Common Area.

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## ARTICLE V

### MAINTENANCE OF TOWNHOUSE UNITS

Section 5.01. The Association shall determine the need for and may carry out or cause to be performed all maintenance and repair to the exteriors of the Townhouse Units including, without limitation, all masonry walls, including the foundations thereof, roofs, gutters and downspouts made necessary and desirable, in the discretion of the Association, as a result of natural or ordinary wear and deterioration. The Association shall also determine the need for and shall carry out or cause to be performed the maintenance and repair of all water, sewer, gas, telephone, and electrical lines incorporated in and forming a part of the Townhouse Units that service more than one Townhouse Unit. The Association shall not maintain or repair any furnaces, water heaters, stoves, refrigerators, washing machines or household appliances, glass surfaces, patio and porch areas, patio and porch windows and doors, electrical fixtures, air conditioners and compressors, or any other portion of said unit which services only one Townhouse Unit or the interior of any Townhouse Unit or portion thereof; provided, however, the Association shall be responsible for the maintenance, repair and replacement, if necessary, of the sump pumps located in certain Townhouse Units which serve more than one Townhouse Unit. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance or repair shall be added to and become a part of the assessment to which such Assessment Parcel is subject. The obligations of the Association as contained in this Section 5.01 shall be limited, however, to the extent that there are funds available in the Association's account from the assessments collected pursuant to Article VI hereof. In addition, the maintenance and repair of water softeners which are located in certain Townhouse Units and serve more than one Townhouse Unit shall be the joint responsibility of the Owners served by such water softeners.

Section 5.02. The Association shall pay, as agent and on behalf of the Owners and out of the funds furnished to it by them for such purpose, all taxes and other governmental impositions levied upon the Common Area or any part thereof.

Section 5.03. Each Owner shall have the obligation to maintain in good condition and repair his glass surfaces, windows, front entry doors, electrical fixtures, patio, porch, lawn (including the lawn area adjacent to the Assessment Parcel), fences and walkways located on his Assessment Parcel. Privacy fences which separate one Assessment Parcel from another shall be maintained by the Owners of the respective Assessment Parcels which said fences benefit. Upon the failure of any Owner to maintain those areas not the maintenance responsibility of the Association, the Association, through its agents and employees,

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is hereby granted the right to enter upon the Assessment Parcel and make such reasonable repairs, maintenance, rehabilitation or restoration of the premises as may be necessary, and the costs thereof shall become a lien upon the Assessment Parcel in the same manner as provided in Article VI for nonpayment of maintenance assessments. Notwithstanding anything herein to the contrary, the Association may elect, through its agents and employees, to perform any or all of the obligations imposed on each Owner, and provided any such obligation is performed uniformly amongst all Assessment Parcels, the costs thereof may be paid for by the Association from its operating budget.

Section 5.04. The Association shall have the right to draw water from individual Townhouse Units as required for the efficient performance of its duties hereunder. The Association shall pay for all water/sewer bills incurred on the Property and each Owner shall be assessed for an equal share of said bills, regardless of whether or not water usage is individually metered.

Section 5.05. Any action by the Association which could affect the Owner's easement in the Common Area (mortgage, conveyance or dedication of the Common Area or annexation, merger, consolidation or dissolution of the Association) must have the consent of not less than two-thirds (2/3) of each class of Members.

## ARTICLE VI

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.01. The Declarant, for each Assessment Parcel owned within the Property, hereby covenants, and each Owner of any Assessment Parcel by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or the conveyance, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges, and (b) special assessments for capital improvements or such other improvements upon the Property, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Assessment Parcel against which each such assessment is made. Each such assessment, together with such interests, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Assessment Parcel at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 6.02. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the residents in the Property and in particular for the improvement and maintenance of the Property, services and facilities devoted to this purpose and related

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to the use and enjoyment of such Common Area, and of the Townhouse Units situated upon the Property. Such uses shall include, but are not limited to, the cost to the Association of all taxes, insurance, water and sanitary sewer service, repair, replacement and maintenance of the Common Area (including the driveways, common water lines and common sanitary sewer lines serving said Townhouse Units), and the maintenance of the exteriors of the Townhouse Units and other facilities and activities as may from time to time be authorized by the Board and are not otherwise prohibited by this Declaration. Such other facilities and activities shall include, but not be limited to, mowing grass, caring for the grounds, landscaping, equipment, street lighting, if any, all sanitary and storm sewer and water lines, structures and appurtenances (other than those maintained by any governmental authority or utility company), perimeter fencing, if any, and other charges required by this Declaration or that the Board shall determine to be necessary or desirable to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, replacements, taxes, and other charges as specified herein. In addition, waste removal and/or any utilities which are not separately metered or otherwise directly charged to individual Unit Owners shall be paid for by the Association from the maintenance fund. In the event any utilities which benefit the Common Area are directly charged to any Owner, the Association will reimburse such Owner for any such expense. The Board reserves the right to levy additional assessments against any Owner to reimburse it for excessive use by such Owner of any utility service, the expense of which is charged to the maintenance fund.

Section 6.03. The Board shall be authorized to fix the annual assessment in the amount sufficient to meet the costs and expenses as contained in Section 6.02 hereof provided.

Section 6.04. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement (including those items of maintenance and repair set forth in Section 5.01 hereof) of a described capital improvement upon the Common Area, including the necessary fixtures and personal property relating thereto, if any. Such special assessment shall be approved in the same manner as any increase in the Estimated Cash Requirements as described in Section 6.01 of the By-Laws.

Section 6.05. Both annual and special assessments must be fixed at a uniform rate for all Townhouses and shall be collected on a monthly basis.

Section 6.06. The annual assessments provided for herein shall commence for all Townhouses within the Property on the first day of the month following the conveyance of the first Townhouse. The Board shall fix the amount of the annual assessment against each Assessment Parcel at least thirty (30) days in

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advance of each annual assessment period and in lieu thereof, the amount of the prior year's annual assessment shall be the fixed amount. Written notice of any changed amount of annual assessment shall be due on the first day of each month. An Owner shall first be liable for payment of the full monthly assessment on the 1st day of the month following conveyance of title to him. This payment shall be in addition to the prorated portion of the monthly assessment which Owner shall pay as of the date title to his Townhouse is conveyed. The Association shall upon demand at any time furnish a certificate in writing signed by an officer or agent of the Association setting forth whether the assessments on a specified Townhouse Parcel have been paid and, if not paid, the amount of any such deficiency. Such certificates shall be conclusive evidence of payment of any assessment therein.

Section 6.07. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten (10%) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the respective Assessment Parcel and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each Owner, by his acceptance of a deed to an Assessment Parcel, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, except that the court shall restrain the defaulting Owner from reacquiring his interest at such judicial sale.

Section 6.08. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed on the Assessment Parcels provided, however, that such prior recorded mortgage shall be subject to the lien of all unpaid assessments with respect to such Assessment Parcel which became due and payable subsequent to the date the holder of said mortgage takes possession of the Assessment Parcel, accepts a conveyance of any interest in the Assessment Parcel or has a receiver appointed in a suit to foreclose his lien.

## ARTICLE VII

### INSURANCE

Section 7.01. The Association shall be responsible for procuring and maintaining comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and other liability insurance as it may deem desirable, insuring the Association from liability in connection with the ownership

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and/or use of the Common Area. The Association shall be further responsible for maintaining such policies of insurance for the Common Area against loss or damage by fire and such other hazards contained in the customary fire and extended coverage, vandalism and malicious mischief endorsements as the Association may deem desirable provided that such policies shall (i) provide that such policies may not be canceled or substantially modified without at least ten (10) days written notice to the Association and all mortgagees of record of the Common Area; (ii) provide that all mortgagees of record of the Common Area shall have the right to pay overdue insurance premiums and to obtain new coverage in the event the existing insurance policy lapses; (iii) provide for coverage in the amount of one hundred (100%) percent of full replacement value; and (iv) contain standard mortgage clause endorsements in favor of the mortgagee(s) of the Common Area, as their respective interests may appear. The Association may also obtain such other kinds of insurance as the Association shall from time to time deem prudent and desirable. The Association shall also maintain fidelity insurance against dishonest acts on the part of directors, managers, trustees, employees or volunteers responsible for handling funds belonging to or administered by the Association, naming, as the insured, the Declarant so long as it has an insurable interest, and the Association and written in an amount which is no less than one and one-half (1-1/2) times the insured's estimated annual expenses and reserves. Such bond shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. Such bond shall provide that it may not be canceled for non-payment of any premium or otherwise substantially modified without thirty (30) days prior written notice to all holders of first mortgages of record.

Section 7.02. The Association shall procure and maintain in full force at all times insurance covering the Townhouse Units consisting of, or providing all the protections afforded by, the insurance now generally described as fire, extended coverage, additional extended coverage, vandalism and malicious mischief, to one hundred (100%) percent of the full insurable value thereof, with loss payable on the basis of the cost replacement without deduction for depreciation, less a deductible amount of no more than five hundred (\$500.00) dollars. A certificate of insurance evidencing such coverage shall be furnished to each Owner and new certificates evidencing the renewal of each expiring policy of insurance shall be furnished to each Owner upon their request at least ten (10) days prior to the expiration date of the expiring insurance. In the event any Townhouse Unit or any portion thereof, shall be damaged or destroyed by fire or other casualty, the Association shall cause it to be repaired, restored or rebuilt, as the case may be, as rapidly as possible to at least as good as condition as existed immediately prior to such damage or destruction and in the same architectural style and design as originally constructed and shall conform in all respect to the laws or ordinances regulating the construction or reconstruction. In the event of the total or substantial destruction of all of the Townhouse Units, the architectural design

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of the Townhouse Units to be rebuilt and the materials to be used in constructing the same shall be agreed upon among the Owners thereof, and in the absence of agreement, the rebuilt Townhouse Units shall be substantially similar in architectural design as the original Townhouse Units and shall be constructed of comparable materials. The Board, acting for the Association, shall procure the insurance coverage provided for in this Section 7.02, and the cost thereof shall be included as a cost and expense under Section 6.02 hereof.

Section 7.03. Each Owner shall be responsible for his own insurance on the contents of his Assessment Parcel, and furnishing and personal property therein, and his personal property stored elsewhere on the Property, and his personal liability to the extent not covered by the policies of liability insurance obtained by the Board for the benefit of all Owners as above provided. All policies of casualty insurance carried by each Owner shall be without contribution as respects the policies of casualty insurance obtained by the Board for the benefit of all Owners as above provided.

Each Owner shall be required to report all additions or alterations to his Assessment Parcel promptly in writing to the Board, and to reimburse the Board for any additional insurance premiums attributable thereto, and each Owner shall be responsible for any deficiency in any insurance loss recovery which results from such Owner's failure to so notify the Board. The Board shall not be responsible for obtaining insurance on such additions or alterations unless and until such Owner shall make arrangements satisfactory to the Board for such additional premiums; and upon the failure of such Owner to do so, the Board shall not be obligated to apply any insurance proceeds to restore the affected Assessment Parcel to a condition better than the additions or alterations. "Additions" or "alterations" shall mean property attached to the Assessment Parcel and not readily removable without damage to the Assessment Parcel, including but not limited to, carpeting, special flooring, special wall covering and paneling.

Upon failure of any Owner to reimburse the Board for any additional insurance premiums, the costs thereof shall become a lien upon the Owner's Assessment Parcel in the same manner as provided in Article VI hereof for nonpayment of maintenance assessments.

Section 7.04. All repair, restoration or rebuilding pursuant to the provisions of this Article VII shall be carried out under such supervision and direction as the Board shall deem appropriate in order to assure the expeditious and correct completion of the work concerned, and the Owner or Owners of each Townhouse Unit which shall have been damaged or destroyed shall fully cooperate with, and abide by all instructions and directions of, the Association in connection therewith.

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Section 7.05. In the event of such damage or destruction of a Townhouse Unit, the holder of the mortgage encumbering said Townhouse Unit shall allow the proceeds of any insurance required pursuant to Section 7.02 hereof to be utilized in restoring the Townhouse Unit pursuant to the terms of this Article.

Section 7.06. In the event of any damage or destruction to the exterior portion of a Townhouse Unit and the loss is covered by policies of insurance, the Board shall have the authority to settle and adjust any claim under such policies without the consent of the respective Owner.

Section 7.07. In the case of a taking or condemnation by competent authority of any part of the Common Area, the proceeds awarded in such condemnation shall be paid to the Association and proceeds, together with any Capital Reserves being held for such part of the Common Area shall, in discretion of the Board, either (i) be applied to pay the assessments levied by the Association, (ii) be distributed to the Owners and their respective mortgagees, as their interest may appear, in accordance with their respective interest in the Common Area or (iii) be used to acquire additional real estate to be used and maintained for the mutual benefit of all Owners. Any acquisition by the Association pursuant to this Section of real estate which shall become Common Area hereunder shall not become effective unless and until a supplement to this Declaration, which refers to this Section and legally described the real estate affected, is executed by the Association and recorded.

## ARTICLE VIII

### INTERIM PROCEDURE

Section 8.01. Until each of the various Assessment Parcels shall have been conveyed by the Declarant to the first Owner thereof (or to such Owner's nominee), the beneficial owner of the Declarant shall, with respect to each such unsold Assessment Parcel, have all the rights granted to the Owners.

Section 8.02. Until the initial meeting of the Members, the Declarant (or its beneficiaries or designees) may appoint the Board which shall have the same powers and authority as given to the Board generally.

Section 8.03. The powers granted to the beneficiaries of the Declarant by Section 8.02 hereof shall include, without limitation, the power to assess upon and collect from the individual Owners, their respective proportionate shares of the funds required for the carrying out of all the duties and obligations of the Association.

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## ARTICLE IX

### RESTRICTIONS RELATING TO PROPERTY

Section 9.01. Each Assessment Parcel conveyed shall be designated by a separate legal description and shall constitute a freehold estate subject to the terms, conditions and provisions hereof.

Section 9.02. The Assessment Parcels shall be used only for residential purposes, as a private residence, and no professional business or commercial use shall be made of the same, or any portion thereof or resident's use of an Assessment Parcel endanger the health or disturb the reasonable enjoyment of any other Owner or resident, except as provided in Section 4.01(b) herein and provided further, that the Assessment Parcel restrictions contained in this Section shall not be construed in such manner as to prohibit an Owner from (a) maintaining his personal, professional library therein; (b) keeping his personal, business or professional records or accounts therein; or (c) handling his personal, business or professional telephone calls or correspondence therefrom.

Section 9.03. No buildings other than Townhouse Units shall be located on each Assessment Parcel.

Section 9.04. Except as hereinafter provided in Section 9.06 hereof, no structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used as a residence at any time, either temporarily or permanently.

Section 9.05. No advertising sign (except one "For Rent" or "For Sale" sign of not more than five square feet per Townhouse Unit), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the Townhouse Unit except as provided in Section 9.06 hereof.

Section 9.06. The foregoing covenants of this Article IX shall not apply to the activities of the beneficiaries of the Declarant. The beneficiaries of the Declarant may maintain, while engaged in construction and sales activities, in or upon such portions of the property as said beneficiaries determine, such temporary facilities as in its sole discretion may be necessary or convenient, including, but without limitation, offices, storage areas, model units, signs and construction trailers.

Section 9.07. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Assessment Parcel, except dogs, cats or other common household pets (not to exceed a total of one (1) pet per dwelling unit) may be kept, provided that they are not kept, bred, or maintained for commercial purposes.

Section 9.08. All rubbish, trash, or garbage shall be kept so as not to be seen from neighboring Townhouse Units and

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streets, and shall be regularly removed from the Property, and shall not be allowed to accumulate thereon.

Section 9.09. Drying of clothes shall be confined to the interior of the Townhouse Units.

Section 9.10. Owners shall not cause or permit anything to be placed on the outside walls, roof, patios, or porches, nor under porches, of any of the Townhouse Units and no sign, awning, canopy, shutter, radio, television antenna, or such other apparatus shall be affixed to or placed upon the exterior walls, roof, patios, or porches of any Townhouse Unit, or any part thereof, without the prior written approval of the Board. Patios shall be constructed at grade as a concrete slab only. Nothing herein shall prohibit the construction of one such patio per Townhouse Unit provided the patio is contiguous to the Townhouse Unit, has a floor area of not more than two hundred thirty (230) square feet, and does not alter established grade contours. It shall not be permitted to install a stairway connecting a porch with a patio or any other portion of any Assessment Parcel; nor shall it be permitted to enclose the sides of any porch or patio, except that the sides of a porch may be enclosed with approved screening.

Section 9.11. An Owner shall do no act nor any work that will impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Townhouse Units or their owners.

Section 9.12. There shall be no change in any exterior color of any Townhouse Unit from the color scheme existing upon the date of the recording of this Declaration without the prior written approval of the Association.

Section 9.13. No nuisance, noxious or offensive activity shall be carried on the Property nor shall anything be done therein,, either willfully or negligently, which may be or become an annoyance or nuisance to the Owners or Occupants.

Section 9.14. Each Assessment Parcel is hereby declared to be the subject to an easement and right to and in favor of the Association and each and all of its employees, agents and instrumentalities to go upon such Assessment Parcel for reasonable inspection thereof from time to time and for the purpose of carrying out any and all of the obligations and functions with respect to such Assessment Parcel and the Townhouse Unit located thereon as are herein imposed upon or permitted to the Association. Each Assessment Parcel is further declared to be subject to an easement in favor of any adjoining Assessment Parcel to the extent necessary to permit the maintenance, supply, repair, and servicing of utility services to the various Assessment Parcels and Townhouse Units located thereon.

Section 9.15. The Owner of each Assessment Parcel shall from time to time grant such additional easements and rights

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over, across, on, under and upon his Assessment Parcel as may be reasonably necessary in connection with the supply of any of the utilities described in Section 4.10 hereof to any part of the Property.

Section 9.16. The Board may adopt such other rules and regulations from time to time governing the use and enjoyment of the Common Area and the use of the Assessment Parcels as the Board, in its sole discretion, deems appropriate or necessary.

Section 9.17. Parking areas and driveways shall be used for parking operable automobiles only and shall not be used for parking campers, trailers, snowmobiles, boats, or any vehicles which because of their size cannot be parked inside the garage of a Townhouse Unit, nor for any other purpose. The Board may authorize such vehicles parked in violation of this provision to be towed away and any such towing charge shall become a lien upon the Assessment Parcel of the owner of the vehicle in the same manner as provided in Article VI hereof for non-payment of maintenance assessments.

Section 9.18. Each Assessment Parcel and the Common Area is hereby subjected to a permanent easement appurtenant to any adjoining Assessment Parcel to permit the construction, existence, maintenance, repair and restoration of structures located on such adjoining Assessment Parcel, including roof structures which overhand and encroach upon the servient Assessment Parcel or Common Area, provided that the construction of such structure is permitted and approved as elsewhere herein provided. The owner of the dominant tenement shall have the right, at all reasonable times, to enter the easement area in order to maintain, repair and restore any improvements located on the dominant tenement provided, however, that such entry shall be allowed only during daylight hours and with the prior knowledge of the owner of the servient tenement. In case of emergency, such right of entry shall be immediate, not restricted as to time and not to be conditioned upon prior knowledge of the owner of the servient tenement. The owner of the servient tenement shall not place any improvement, material or obstacle in or over the easement area on the servient tenement which would unreasonably interfere with the rights of the owner of the dominant tenement granted by this Section 9.18. Any such improvement, material or obstacle shall be promptly removed by the owner of the servient tenement at that owner's expense when requested by the owner of the dominant tenement or Declarant notwithstanding any lapse of time since such improvements, material or other obstacle was placed in or over the easement area.

Section 9.19. No building, fence, wall or other structure or landscaping shall be commenced, erected or maintained upon the Property except such as are installed or approved by the Declarant in connection with the initial development of the Townhouse Units upon the Property, nor shall any exterior addition to or change or alteration or, in the event of a casualty loss, any restoration made to the exterior portion of any Townhouse Unit,

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therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same, and the grading plan and landscape plan shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board or by an architectural committee of three (3) or more persons appointed by the Board. In the event the Board, or its architectural committee, fail to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, or in the event no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Section 9.19 will be deemed to have been fully complied with. The Board or its architectural committee shall, in addition, have the right to approve the general contractor responsible for performing the work in connection with the restoration of the exterior portion of any Townhouse Unit in the same manner as approval of plans and specifications is obtained.

Section 9.20. Until such time as title to any Assessment Parcel is conveyed to a bona fide purchaser, the Declarant reserves the right to lease such Assessment Parcels upon such terms and conditions as the Declarant may, in its sole discretion, approve provided, however, that no Townhouse Unit shall be leased by an Owner for hotel or transient purposes or for a term less than six (6) months and no portion of a Townhouse Unit which is less than the entire Townhouse Unit shall be leased. Each lease of any one or more Townhouse Units shall be in writing and a copy of every such lease, as and when executed, shall be furnished to the Board. The lessee under every such lease shall be bound by and subject to all of the obligations, under the Declaration and Bylaws, of the Owner making such lease and any rules and regulations issued in connection herewith and the failure of the lessee to comply therewith shall constitute a default under the lease which shall be enforceable by the Board or the Association, and the lease shall be deemed to expressly so provide. The Owner making such lease shall not be relieved thereby from any of said obligations.

## ARTICLE X

### PARTY WALLS

Section 10.01. All dividing walls which straddle the boundary line between Assessment Parcels and which stand partly upon one Assessment Parcel and partly upon another, and all walls which serve two or more Townhouse Units, shall at all times be considered party walls, and each of the owners of Assessment Parcels upon which any such party wall shall stand shall have the right to use said party wall below and above the surface of the ground and along the whole length or any part of the length thereof for the support of said Townhouse Units and for the support of any building constructed to replace same, and shall have the right to maintain in or on said wall any pipes, ducts or



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conduits originally located therein or thereon subject to the restrictions hereinafter contained.

Section 10.02. No owner of any Assessment Parcel nor any successor in interest to any such owner shall have the right to extend said party wall in any manner, either in length, height or thickness.

Section 10.03. In the event of damage to or destruction by fire or other casualty of any party wall, including the foundation thereof, the owner of any Assessment Parcel upon which such party wall may rest shall have the obligation to repair or rebuild such wall and the owner of each Assessment Parcel upon which such wall shall rest, be served or benefited by shall pay his aliquot portion of the cost of such repair or rebuilding. All such repair or rebuilding shall be done within a reasonable time, in a workmanlike manner with materials comparable to those used in the original wall and shall conform in all respects to the laws or ordinances regulating the construction of building in force at the time of such repair or reconstruction. Whenever any such wall or any portion thereof shall be rebuilt, it shall be erected in the same location and on the same line and be of the same size as the original wall.

Section 10.04. The foregoing provision of this Article notwithstanding, the owner of any Assessment Parcel, or other interested party, shall retain the right to receive a larger contribution from another or others under any rule or law regarding liability for negligent or willful acts or omissions. The right of any owner, or other interested part, to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's or other person's successor in title.

Section 10.05. The title of each owner to the portion of each party wall within such Townhouse Unit is subject to a cross easement in favor of the adjoining owner for joint use of said wall.

## ARTICLE XI

### PROVISIONS RESPECTING MORTGAGEES

The following provisions are intended for the benefit of each holder of a recorded first mortgage or trust deed encumbering an Assessment Parcel ("First Mortgagee") and to the extent, if at all, that any other provisions of this Declaration conflict with the following provisions, the following provisions shall control:

Section 11.01. Upon request in writing to the Association identifying the name and address of the First Mortgagee or the insurer or guarantor of a recorded first mortgage or trust deed on an Assessment Parcel ("Insurer or Guarantor") and the Assess-

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ment Parcel number, the Association shall furnish each First Mortgagee, Insurer or Guarantor a written notice of any Owner's obligations under this Declaration which is not cured within thirty (30) days. Any First Mortgagee of a Assessment Parcel who comes into possession of the said Assessment Parcel pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure shall, to the extent permitted by law, take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Assessment Parcel which become due prior to [i] the date of the transfer of title or [ii] the date on which the holder comes into possession of the Unit, whichever occurs first.

11.02. Upon request in writing, each First Mortgagee, Insurer or Guarantor shall have the right:

[i] to examine current copies of this Declaration, the Bylaws, rules and regulations and the books and records of the Association during normal business hours;

[ii] to receive, without charge and within a reasonable time after such request, any annual audited or unaudited financial statements which are prepared and distributed by the Association to the Owners at the end of each of its respective fiscal years, provided, however, that in the event an audited financial statement is not available, fifty-one percent (51%) or more of the First Mortgagees (by number) shall be entitled to have such an audited statement prepared at their expense;

[iii] to receive written notices of all meetings of the Association and to designate a representative to attend all such meetings;

[iv] to receive written notice of any decision by the Owners to make a material amendment to the Declaration, By-Laws contained herein or Articles of Incorporation;

[v] to receive written notice of any lapse, cancellation or modification of any insurance policy or fidelity bond maintained by the Association; and

[vi] to receive written notice of any action which would require the consent of a specified percentage of First Mortgagees.

Section 11.03. No provision of this Declaration or Articles of Incorporation to the Association or any similar instrument pertaining to the Property or the Assessment Parcels therein shall be deemed to give an Owner or any other party priority over the rights of the First Mortgagees pursuant to their mortgages, in the case of distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of the Assessment Parcels, and/or the Common Area, or any portion thereof or inter-

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est therein. In such event, the First Mortgagees, Insurers or Guarantors of the Assessment Parcels affected shall be entitled, upon specific written request, to timely written notice of any such loss.

Section 11.04. Unless the First Mortgagees of all of the Assessment Parcels which are a part of the Property have given their prior written approval, neither the Association nor the Owners shall be entitled to:

[i] by act or omission seek to abandon or terminate the Association and/or abrogate this Declaration, or to abandon, partition, subdivide, encumber, sell or transfer the Common Area;

[ii] change the obligations of any Owner for purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;

[iii] use hazard insurance or condemnation proceeds for losses to any Property for other than the repair, replacement or construction of such improvements;

[iv] by act or omission change, waive or abandon any scheme of regulations or enforcement thereof, pertaining to the architectural design or exterior appearance of Townhouse Units, the exterior maintenance of Townhouse Units, or the maintenance of the Common Area; or

[v] fail to maintain the insurance required in Article VII.

Section 11.05. Unless the First Mortgagees of the individual Assessment Parcels representing at least fifty-one percent (51%) of the votes in the Association have given their prior written approval, neither the Association nor the Owners shall be entitled to:

[i] amend the provisions of this Declaration concerning reserves, assessments, assessment liens or subordination of assessment liens, reallocating interests in the Common Area or rights to use, expansion or contraction of the Property or addition, annexation or withdrawal of the property to or from this Declaration, voting rights, responsibility for maintenance and repairs, insurance or fidelity bonds and leasing of units;

[ii] impose any restrictions on an Owner's right to sell or transfer his Unit; or

[iii] terminate professional management of the Property and assume self-management thereof.

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Section 11.06. Upon specific written request to the Association, each First Mortgagee, Insurer or Guarantor of a Unit shall be furnished notice in writing by the Association of any damage to or destruction or taking of the Common Area if such damage or destruction or taking exceeds Ten Thousand Dollars (\$10,000.00), or if damage shall occur to an Assessment Parcel in excess of One Thousand Dollars (\$1,000.00), notice of such event shall also be given.

Section 11.07. If any Assessment Parcel or portion thereof or the Common Area or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the First Mortgagee, Insurer or Guarantor of said Assessment Parcel will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition and no provisions of any document will entitle the Owner of a Assessment Parcel or other party to priority over such First Mortgagee with respect to the distribution to such Assessment Parcel of the proceeds of any award settlement.

Section 11.08. First Mortgagees may, singly or jointly, pay taxes or other charges which are in default and which may become a charge against the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a new policy, for such Common Area and such First Mortgagees shall be owed immediate reimbursement from the Association.

## ARTICLE XII

### ANNEXATION OF ADDITIONAL PROPERTIES

Section 12.01. If, within seven (7) years of the date of the recording of this Declaration, the beneficiaries of the Declarant should develop, although no provision hereof shall be construed as requiring the beneficiaries of the Declarant to do so, any portion of the Adjoining Parcel, such additional lands may be annexed to the Property without the assent of the Class A members or their respective mortgagees.

Section 12.02. In the event Declarant elects from time to time to annex and subject all or any portion of the Adjoining Parcel to the provisions of this Declaration, Declarant shall record a Supplementary Declaration(s), which shall contain but not be limited to the following:

(a) The legal description of the additional portion of Property which is to become subject to this Declaration; and

(b) A legal description indicating that portion of the Property which is to be improved with Townhouse Units and that portion which is to become a part of the Common Area.

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Upon compliance with this paragraph all Supplementary Declarations and the real estate covered therein shall be subject to the following terms and conditions:

(a) When annexed to the Property, the rights, easements, covenants, restrictions, burdens, uses and privileges set forth and described herein shall run with and bind the land of the Adjoining Parcel and inure to the benefit of and be the personal obligation of the Owners of Assessment Parcels thereon in the same manner, to the same extent and with the same force and effect that this Declaration applies to the Property previously subjected thereto;

(b) Every person or entity who is an Owner of any Assessment Parcel shall be a Member of the Association on the same terms and subject to the same qualifications and limitations as those Members who are then Owners;

(c) In all other respects, all of the provisions of this Declaration shall include and apply to the additional portions of the Property included in any such Supplementary Declaration including any Assessment Parcels and any additions to the Common Area situated therein, and the owners, mortgagees and lessees thereof, with equal meaning and of like force and effect.

Section 12.03. The maximum number of Assessment Parcels which may be annexed or added to the Property is Thirty-Eight (38). All improvements intended for the Adjoining Parcel shall be substantially completed prior to annexation. Any future improvements to be constructed on portions of the Adjoining Parcel will be consistent with the initial improvements on the Property in terms of quality of construction.

## ARTICLE XIII

### MISCELLANEOUS

Section 13.01. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, easements, conditions, covenants, liens and charges now or hereafter imposed by the provisions of this Declaration. Any Owner found to be in violation by a court of competent jurisdiction of any of the foregoing shall also be liable for reasonable attorney's fees incurred by the Association in prosecuting such action. The amount of such attorney's fees together with court costs, if unpaid, shall constitute an additional lien against the defaulting Owner's Assessment Parcel, enforceable as other liens herein established. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 13.02. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect

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any other provisions which shall remain in full force and effect.

Section 13.03. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, the Owner of any Assessment Parcel subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive period of ten (10) years, subject to amendment as hereinafter set forth. The covenants and restrictions of this Declaration may be amended during the first fifty (50) year period or within any successive ten (10) year period by an instrument signed by those Members (Class A and Class B) entitled to cast seventy-five percent (75%) of the total votes as provided in Article III, Section 3.01 hereof and then properly recorded. These covenants and restrictions may also be canceled or amended by an instrument signed by sixty-seven percent (67%) of Owners executed and recorded within ninety (90) days of the expiration of any successive ten (10) year period, such cancellation or amendment to be effective on the date of commencement of the ten (10) year period in question. Any instrument executed pursuant to the provisions contained herein shall be filed for record in the Office of Recorder of Cook County, Illinois, and a true, complete copy of such instrument shall be transmitted to each Owner promptly.

Section 13.04. If and to the extent that any of the covenants would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provision concerned shall continue and endure only until the expiration of a period of twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of George Herbert Walker Bush, President of the United States of America, and Eugene Simpson, Mayor of the Village of Palos Heights, living at the date of this Declaration.

Section 13.05. Any notices 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.

Section 13.06. If at any time or times the Board shall deem it necessary or advisable to re-record this Declaration or any part hereof in the Office of the Recorder of Cook County, Illinois, in order to avoid the expiration hereof or of any of the covenants, easements, agreements or other provisions here contained under any of the provisions of Chapter 83 of the Illinois Revised Statutes presently in force commonly known as the Mar-

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ketable Title Act, or any other law or statute of similar purport, they shall submit the matter to a meeting of the Members called upon not less than ten (10) day's notice, and unless at such meeting at least two-thirds (2/3) of Members shall vote against such re-recording, the Association shall have, and is hereby granted, power to so re-record this Declaration or such part thereof, and such re-recording shall be binding upon all Owners of any part of the Property in every way and with all the full force and effect as though such action were taken by each of said Owners and rerecorded document executed and acknowledged by each of them.

Section 13.07. All the easements, rights, covenants, agreements, reservations, restrictions and conditions herein contained shall run with the land and shall inure to the benefit of and be binding upon Declarant and each subsequent holder of any interest in any portion of the Property and their grantees, heirs, successors, personal representatives and assigns with the same full force and effect for all purposes as though set forth at length in each and every conveyance of the property or any part thereof. Reference in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easement and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of such parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

Section 13.08. An amplification of and in addition to the provisions contained in Article VI, Section 6.07, in the event of any default of any Owner, the Association may and shall have the right and remedy as shall otherwise be provided or permitted by law, including the right to take possession of such Owner's interest and Assessment Parcel for the benefit of all other Owners by an action for possession in the manner prescribed in Article IX of the Code of Civil Procedure, Chapter 110, Illinois Revised Statutes.

Section 13.09. Notwithstanding anything in the Declaration to the contrary, with regard to the provisions of Section 13.03, Section 6.08 and Article XI, no amendment to, change or modification of these Sections and/or Article shall be effective unless such change or amendment shall be first consented to, in writing, by all mortgagees of record of such Assessment Parcels.

Section 13.10. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first class cooperative housing development.

Section 13.11. Declarant reserves the right and power 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 Associa-

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tion, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, 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 to make, purchase, sell, insure or guarantee first mortgages covering Assessment Parcels, or (iii) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting an Assessment Parcel, and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record Special Amendments. The right of the 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 any Assessment Parcel or any part of the Adjoining Parcel.

THIS DECLARATION is executed by COLE TAYLOR BANK, as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and COLE TAYLOR BANK hereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this Declaration that the COLE TAYLOR BANK, as Trustee aforesaid, and not personally, has joined in the execution of this Declaration for the sole purpose of subjecting the title holding interest and the trust estate under said Trust No. 90-2065 to the terms of this Declaration; that any and all obligations, duties, covenants and agreements of every nature herein set forth by COLE TAYLOR BANK, as Trustee aforesaid, to be kept and performed, are intended to be kept, performed and discharged by the beneficiaries under said Trust No. 90-2065 or their successors, and not by COLE TAYLOR BANK personally; and further, that no duty shall rest upon COLE TAYLOR BANK, either personally or as such Trustee, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation, express or implied, arising under the terms of this Declaration, except where said Trustee is acting pursuant to direction as provided by the terms of said Trust No. 90-2065, and after the Trustee has first been supplied with funds required for the purpose. In the event of conflict between the terms of this paragraph and of the remainder of the Declaration on any question of apparent liability or obligation resting upon said Trustee, the exculpatory provision hereof shall be controlling.



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IN WITNESS WHEREOF, the said COLE TAYLOR BANK, as Trustee as aforesaid, and not individually, has caused its corporate seal to be affixed hereunder and has caused its name to be signed to these presents by its Vice President \_\_\_\_\_ and attested by its Land Trust Administrator this 22nd day of May, 1992.

COLE TAYLOR BANK, as Trustee under Trust No 90-2065, and not personally

by Phyllis Lindstrom  
its Vice President

ATTEST:

by Constance E. Considine  
its Land Trust Administrator

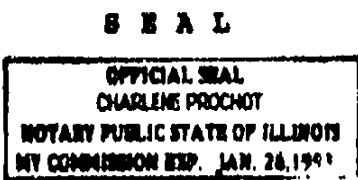
Exemption provision restricting any liability of Cole Taylor Bank stamped on the reverse side hereof or attached hereto is hereby expressly made a part hereof.

STATE OF ILLINOIS )  
                          ) ss.  
COUNTY OF COOK   )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Phyllis Lindstrom, as Vice President of COLE TAYLOR BANK, as Trustee under Trust Agreement dated October 20, 1990 and known as Trust No. 90-2065 and not individually, and Constance E. Considine, as Land Trust Administrator thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Land Trust Administrator, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of COLE TAYLOR BANK, for the uses and purposes therein set forth; and the said Land Trust Administrator did also then and there acknowledge that he, as custodian of the corporate seal of COLE TAYLOR BANK, did affix the said corporate seal to said instrument as his own free and voluntary act, and as the free and voluntary act of COLE TAYLOR BANK for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 22nd day of May, 1992.

Charlene Prochot  
Notary Public



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## EXCULPATORY CLAUSE

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 were in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are understood and agreed to be made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose of binding said Trustee personally but as warranties, indemnities, representations, covenants, undertakings and agreements for the purpose of binding only that portion of the trust property which is lawfully and lawfully held, managed, administered, 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 claimed against or enforceable against Cole Taylor Bank or any of the beneficiaries under said Trust Agreement, on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

COLE TAYLOR BANK

Recorder of Cook County Clerk's Office

RECORDED  
INDEXED  
SERIALIZED  
FILED  
MAY 10 1961  
CHICAGO, ILL.

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## EXHIBIT "A"

### LEGAL DESCRIPTION OF THE PROPERTY

Lots 22, 23, 24 and 25 in Palos Landings, a Planned Unit Development of Lots 6, 7 and 8, and the strip of land marked "Private Road" in Einoder's Southwest Highway, a Subdivision of part of the West 1/2 of the South West 1/4 of Section 24, Township 37 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

ADDRESS: 11700 Southwest Highway, Palos Heights, Illinois

PIN: Part of 26-24-100-092, -098, -099 and -100

Property of Cook County Clerk's Office

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## EXHIBIT "B"

### LEGAL DESCRIPTION OF THE COMMON AREA

That part of Outlot "A" located between and bounded by North Bay Road, West Bay Road and 117th Street, and also that part of said Outlot "A" located in West Bay Road and 117th Street in Palos Landings, a Planned Unit Development of Lots 6, 7 and 8, and the strip of land marked "Private Road" in Eincder's Southwest Highway, a Subdivision of part of the West 1/2 of the South West 1/4 of Section 24, Township 37 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

ADDRESS: 11700 Southwest Highway, Palos Heights, Illinois

PIN: Part of 26-24-300-092, -098, -099 and -100

COOK COUNTY CLERK'S OFFICE

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## EXHIBIT "C"

### BYLAWS OF THE ASSOCIATION

#### ARTICLE I

##### Purposes and Powers

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

#### ARTICLE II

##### Offices

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

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

#### ARTICLE III

##### Membership

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

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tled to vote at any meeting of the Members. Such Voting Member shall be the Unit Owner of the Assessment Parcel or the beneficiary or one of the beneficiaries of a land trust which is an Owner or some person (who need not be an Owner) designated by such Owner or beneficiary or beneficiaries to act as proxy on behalf of such Owner or beneficiary or beneficiaries. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Owner. Any or all Owners, and their designee, if any, may be present at any meeting of the Members, but only the Voting Member of the Assessment Parcel may vote or take any other action as a Voting Member either in person or by proxy. The Developer shall designate the Voting Member with respect to any Assessment Parcel owned by the Trustee. Voting rights with regard to each Member are set forth in Section 3.02 hereof.

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

Class A. Class A Members shall be all those Owners as defined in Section 3.01, with the exception of the Declarant. Class A Members shall be entitled to one vote for each Assessment Parcel in which they hold the interest required for membership by Section 3.01. When more than one person holds such interest in any Assessment Parcel, all such persons shall be Members. The vote for such Assessment Parcel shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Assessment Parcel.

Class B. The Class B Members shall be the beneficiaries of the Declarant. The Class B Member shall be entitled to three (3) votes for each Assessment Parcel in which it holds the interest required for membership by Section 3.01; provided that the Class B membership shall cease and be converted to Class A membership on the date which is three (3) years from the recording of the Declaration.

3.03. Meetings.

(a) Quorum: Procedure. Meetings of the Members shall be held at the principal office of the Association or at such other place in Cook County, Illinois as may be designated in any notice of a meeting. The presence at any meeting, in person or by proxy, of a majority of the total votes determined pursuant to Section 3.02 above shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Members at which a quorum is present upon the affirmative vote of the members having a majority of the total votes present at such meeting. Any Member in writing may waive notice of a meeting, or consent to any action of the Association without a meeting.

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(b) Initial and Annual Meeting. The initial meeting of the Members shall be held at such time as may be designated upon thirty (30) days' written notice given by the Declarant or its beneficiaries, provided that such initial meeting shall be held no later than three (3) years from the date the Declaration was recorded. Thereafter, there shall be an annual meeting of the Members on the first Tuesday of April of each succeeding year, at 7:30 o'clock P.M. If the date for the annual meeting of Members is a legal holiday, the meeting will be held at the same hour on the first day next succeeding such date which is not a legal holiday.

(c) Special Meetings. Special meetings of the Members may be called at any time for the purpose of considering matters which, by the terms of the Declaration or these Bylaws, require the approval of all or some of the Members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by a majority of the Board or by the Members having one-fourth (1/4) of the total votes, and delivered not less than five (5) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

3.04. Notice of Meetings. Notices of meeting required to be given herein shall be delivered either personally or by mail to the person entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice, or to the Townhouse Unit of the Owner with respect to which such voting right appertains, if no address has been given to the Board. The notices required herein shall state the specific purpose and the nature of the business for which the meeting is called. At any meeting, no business may be transacted other than that specified in the notice.

3.05 Proxies. At any meeting of Members, a Member entitled to vote may either vote in person or by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

## ARTICLE IV

### Board of Directors

4.01. Board of Directors. The direction and administration of the property in accordance with the provisions of the Declaration shall be vested in the Board of Directors, consisting of five (5) persons who shall be elected in the manner hereinafter provided, except for the first Board of Directors appointed by the Declarant (or its beneficiaries or designee) which shall be three (3) in number. The Members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease the number and term of the office of the Board members at

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any annual meeting, provided that such number shall not be less than five (5), and that the terms of at least two-fifths (2/5) of the persons on the Board shall expire annually. Each member of the Board with the exception of the Board members initially appointed by the Declarant (or its beneficiaries or designee) shall be one of the Owners (including the Declarant); provided, however, that in the event an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any director or officer of such corporation, partner of such partnership, individual trustee or beneficiary of such trust, or manager of such legal entity, shall be eligible to serve as a member of the Board and provided further than in the event a member of the Board has entered into a contract to sell his Townhouse Unit and vacates the Townhouse Unit prior to the consummation of that transaction, such member shall no longer be eligible to serve on the Board and his term of office shall be deemed terminated.

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

4.03. Election of Board Members. At the initial meeting of the Members and at all subsequent annual meetings of the Members, there shall be elected a Board of Directors. In all elections for members of the Board of Directors, no Member shall be entitled to vote on a cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. The initial Board of Directors designated by the Declarant pursuant to Section 4.01 hereof shall serve for a period commencing on the date the Declaration is executed and ending upon the qualification of the directors elected at the initial meeting of Members held as provided in Section 3.03(b) hereof. Members of the Board elected at the initial meeting shall serve until the first annual meeting. Five (5) Board Members shall be elected at the initial meeting. The three (3) 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 two (2) persons receiving the next highest number of votes shall be elected to the Board for a term of one (1) year. In the event of a tie vote, the members of the Board shall determine which members shall have the two (2) year terms and which members shall have the one (1) year terms. Upon expiration of the terms of office of the Board members so elected at the initial meeting and thereafter, successors shall be elected for a term of two (2) years each. Notwithstanding the aforesaid election procedure, the Declarant or its designee or beneficiaries may appoint a Board which will have the same powers and authority as given to the Board generally, as provided hereinafter, and such appointed Board shall function until such time as the initial meeting of the Members is held.



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

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

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

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

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

4.09. Execution of Investments. All agreements, contracts,

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

## ARTICLE V

### Powers of the Board

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

(a) to elect the officers of the Association as hereinabove provided;

(b) to administer the affairs of the Association and the Property;

(c) subject to Section 5.04(b) below, to engage the services of a manager or managing agent who shall manage and operate the Property and the Common Area thereof;

(d) to formulate policies for the Administration, management and operation of the Property and the Common Area thereof;

(e) to adopt administrative rules and regulations governing the administration, management, operation and use of the Property and the Common Area, and to amend such rules and regulations from time to time;

(f) to provide for the maintenance, repair and replacement of the Common Area and the exterior portions of the Townhouse Units and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or managing agent;

(g) to provide for the designation, hiring and removal of employees and other personnel, including accountants and legal counsel, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common Area and the exterior portions of the Townhouse Units and to delegate any such powers to the manager or managing agent (and any such employees or other personnel as may be the employees of the managing agent);

(h) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the

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Owners of such Assessment Parcels which have been occupied for residential purposes, their respective shares of such estimated expenses, as hereinafter provided;

(i) to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to case two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer. In the event Class B membership has ceased, then two-thirds (2/3) of the votes to the Class A membership shall be required to make such dedication or transfer effective;

(j) to mortgage or sell the Common Area or any portion for such purposes and subject to such conditions as may be agreed to by the Members. No such mortgage or sale shall be effective unless an instrument signed by Members entitled to case two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such mortgage or sale. In the event Class B membership has ceased, then two-thirds (2/3) of the votes to Class A membership shall be required to make such mortgage or sale effective;

(k) to have reasonable right of entry on any Assessment Parcel to perform emergency repairs or do other work reasonably necessary for the proper maintenance of the Property; and

(l) to exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Members by the Articles of Incorporation, the Declaration or these Bylaws;

5.02 Capital Additions and Improvements. The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the maintenance fund any structural alterations, capital additions or capital improvements to the Common Area (other than for purposes of replacing or restoring portions of the Common Area, subject to all the provisions of the Declaration) or to those portions of the Townhouse Units as set forth in Section 5.01 of the Declaration having a total cost in excess of Five Thousand Dollars (\$5,000.00), without in each case the prior approval of the Members holding two-thirds (2/3) of the total votes.

5.03. Tax Relief. In connection with the Common Area, the Board shall have the power to seek relief from or in connection with the assessment or levy of any real property taxes, special assessments and any other special taxes or charges of the State of Illinois or any political subdivision thereof, or any other

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lawful taxing or assessing body, which are authorized by law to be assessed and levied on real property and to charge all expenses incurred in connection therewith to the maintenance fund.

## 5.04. Rules and Regulations; Management.

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

(b) Management. The Declarant, beneficiaries of Declarant or the Board shall engage the initial management organization under contracts expiring not later than ninety (90) days after the date the initial meeting of Members is held. Thereafter, the Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board. Any management fees incurred pursuant to this Section 5.04(b) shall be paid from the assessments collected pursuant to Article VI hereof.

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

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

## ARTICLE VI

### Assessments - Maintenance Fund

6.01: Preparation of Estimated Budget. Each year on or

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before December 1, the Board will estimate the total amount necessary to pay the cost of wages, materials, taxes, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services authorized by the Board, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, and shall, on or before December 15, notify each Owner in writing as to the amount of such estimate ("Estimated Cash Requirement"), with reasonable itemization thereof. The Estimated Cash Requirement shall be assessed equally among all of the Owners. On or before January 1 of the ensuing calendar year, and the first of each and every month of said year, each Owner shall be obligated to pay to the Board, or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this Section 6.01. On or before the date of the annual meeting of each calendar year, the Board shall supply to all Owners an itemized accounting of the maintenance expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected from the Owners pursuant to assessments made during each year and showing the net amount over or short of the actual expenditures, plus reserves. The Board shall upon demand at any time furnish a certificate in writing signed by an officer or agent of the Association, setting forth whether the assessments on a specified Assessment Parcel have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein. The Estimated Cash Requirements for each year may not be increased without the consent of at least two-thirds (2/3) of each class of Members at a meeting called for that purpose with at least sixty (60%) percent of Owners or their proxies present. In the event such a quorum is not present, a second meeting shall be called and the quorum shall be reduced to thirty (30%) percent of the Owners or their proxies present, provided, however that the Board may increase the Estimated Cash Requirement each year without a vote of the Owners in the event such increase over the previous year shall not exceed the greater of (i) five (5%) percent of the previous year's Estimated Cash Requirement or (ii) the increase over the previous year in the Consumer Price Index ("Consumer Price Index" shall mean the Consumer's Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Bureau of Labor or, if discontinued, a comparable index shall be utilized).

6.02. Extraordinary Expenditures. The Board shall build up and maintain a reasonable reserve ("Capital Reserve") for authorized capital expenditures, contingencies and replacements not originally included in the annual estimate. Extraordinary Expenditures which may become necessary during the year shall be charged first against such reserve. If such reserve proves inadequate for any reason, including non-payment of any Owner's assessment, the Board may, at any time, levy a further assessment, which shall be divided pro rata among the remaining installments for such fiscal year and assessed equally among the Owners. The Board shall serve notice of further assessment on all such Owners by a statement in writing giving the amount and

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reasons therefor, and such further assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment. All such Owners shall be obligated to pay the adjusted monthly amount. In the event the Board determines that there exists a surplus in the Capital Reserve, the Board shall have the authority to transfer such funds into the operating account to fund any deficit in said account.

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

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

6.05. Books and Records. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Common Area, specifying and itemizing the maintenance and repair expenses of the Common Area and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing at such reasonable time or times during normal business hours as may be requested by the Owner or his representative. Upon ten (10) days' notice to the Board, any Owner shall be furnished a statement of his account, setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

6.06. Status of Collected Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held in trust for the benefit, use and account of all the Owners, other than the Declarant. All funds not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may select.

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6.07. Remedies for Failure to Pay Assessments. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of ten (10%) per cent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Assessment Parcel, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, costs and fees as above provided shall be and become a lien or charge against the Assessment Parcel of the Owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against the real estate. Unless otherwise provided in the Declaration, the members of the Board and their successors in office, acting on behalf of the other Owners, shall have the power to bid in the interest so foreclosed at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Any court shall be authorized to restrain the defaulting Owner from reacquiring his interest at such foreclosure sale. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed on the Assessment Parcels provided, however, that such prior recorded mortgage shall be subject to the lien of all unpaid assessments with respect to such Assessment Parcel which became due and payable subsequent to the date the holder of said mortgage takes possession of the Assessment Parcel, accepts a conveyance of any interest in the Assessment Parcel or has a receiver appointed in a suit to foreclose his lien.

6.08. Forcible Entry and Detainer. In addition to the rights and remedies set forth in Section 6.07, if any Owner shall default in the payment, when same shall be due, of the aforesaid charges or assessments and said default shall continue for thirty (30) days after notice to said Owner by the Board, setting forth the amount of unpaid charges or assessments together with a demand for payment thereof, the Board shall have the right to declare said default a Forcible Detainer of the Assessment Parcel and shall have the right, on behalf of the other Owners, to enter and take possession of the Townhouse Unit from said defaulting Owner, to put out the Owner, or any Occupant claiming by, through or under the Owner, using such reasonable force as the Board shall deem necessary under circumstances and to exercise any of the rights and remedies set forth in the Forcible Entry and Detainer Act, Chapter 57, Illinois Revised Statutes.

6.09. Working Capital Fund. Upon the closing of the first sale of each Assessment Parcel to a purchaser for value, the purchasing owner shall make a capital contribution to the Association in the amount of \$200.00. Said amount shall not be refundable to any Owner and shall be held and used by the

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Association to establish operating and replacement reserves as the Board deems necessary.

## ARTICLE VII

### Covenants and Restrictions as to Use and Occupancy

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

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

## ARTICLE VIII

### Committees

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

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

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

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

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

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

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

## ARTICLE IX

### Interim Procedures

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

## ARTICLE X

### Amendments

These Bylaws may be amended or modified from time to time in accordance with the same provisions governing amendments to the Declaration.

## ARTICLE XI

### Interpretation

In the case of any conflict between the Articles of Incorporation of the Association and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

## ARTICLE XII

### Definition of Terms

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

## ARTICLE XIII

### Dissolution

Upon dissolution of the Association, any Association assets shall be transferred to a homeowner's association similar in nature or functions or to any appropriate public agency having similar purposes.

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## EXHIBIT "D"

### LEGAL DESCRIPTION OF THE ADJOINING PARCEL

That part of Palos Landings, a Planned Unit Development of Lots 6, 7 and 8, and the strip of land marked "Private Road" in Einoder's Southwest Highway, a Subdivision of part of the West 1/2 of the South West 1/4 of Section 24, Township 37 North, Range 12, East of the Third Principal Meridian in Cook County, Illinois, except those portions described in Exhibits "A" and "B" of this Declaration.

ADDRESS: 11700 Southwest Highway, Palos Heights, Illinois

PIN: Part of 26-24-300-092, -098, -099 and -100

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STATE OF ILLINOIS )  
                          ) SS.  
COUNTY OF COOK    )

## CONSENT OF MORTGAGEE

SOUTHWEST FEDERAL SAVINGS & LOAN ASSOCIATION, holder of a Mortgage and Assignment of Rents dated the 3rd day of April, 1991 and recorded as documents 91-156486 and 91-156487, respectively, hereby consents to the execution and recording of the within Declaration of Party Wall Rights, Covenants, Conditions, Restriction and Easements for Palos Landings Townhomes, and agrees that said Mortgage and Assignment of Rents are subject thereto and to the laws of the State of Illinois.

IN WITNESS WHEREOF, SOUTHWEST FEDERAL SAVINGS & LOAN ASSOCIATION has caused this instrument to be signed by its duly authorized officers on its behalf, at Chicago, Illinois as of the 27th day of May, 1992.

SOUTHWEST FEDERAL SAVINGS &  
LOAN ASSOCIATION

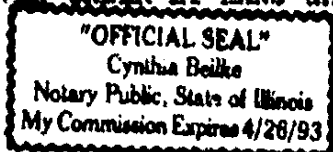
By Albert Rodriguez  
its Executive Vice President

ATTEST:

Mary A. McNally  
its Corporate Secretary

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that Albert Rodriguez and Mary A. McNally of SOUTHWEST FEDERAL SAVINGS & LOAN ASSOCIATION, as such Executive Vice President and Corporate Secretary, respectively, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND and Notarial Seal this 29th day of May, 1992.



Cynthia Beilke  
Notary Public

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