

THIS INSTRUMENT PREPARED
BY AND SHOULD BE RETURNED
TO:

Brian Meltzer
MELTZER, PURTILL & STELLE LLC
1515 East Woodfield Road
Second Floor
Schaumburg, Illinois 60173-5431

ABOVE SPACE FOR RECORDER'S USE ONLY

DECLARATION FOR INDIAN PRAIRIE 204 TOWNHOMES

TABLE OF CONTENTS

ARTICLE ONE	Definitions.....	1
1.01	ASSOCIATION.....	2
1.02	BACKUP SPECIAL SERVICE AREA.....	2
1.03	CHARGES.....	2
1.04	COMMON AREA.....	2
1.05	COMMON ASSESSMENT.....	2
1.06	COMMON EXPENSES.....	2
1.07	COUNTY.....	2
1.08	COST SHARING AND CROSS EASEMENT DECLARATION.....	2
1.09	DECLARANT.....	2
1.10	DECLARATION.....	2
1.11	DESIGNATED BUILDER.....	2
1.12	DEVELOPMENT AREA.....	3
1.13	FIRST MORTGAGEE.....	3
1.14	HOME.....	3
1.15	HOME EXTERIOR.....	3
1.16	LOT.....	3
1.17	MANAGER.....	3
1.18	MUNICIPALITY.....	3
1.19	OPERATING AGREEMENT.....	3
1.20	OWNER.....	3
1.21	PERSON.....	3
1.22	PLAT.....	3
1.23	PREMISES.....	3
1.24	RECORD.....	3
1.25	RESIDENT.....	3
1.26	TURNOVER DATE.....	4
1.27	VOTING MEMBER.....	4
ARTICLE TWO	Scope of Declaration/Certain Easements.....	4
2.01	PROPERTY SUBJECT TO DECLARATION.....	4
2.02	CONVEYANCES SUBJECT TO DECLARATION.....	4

2.03 DURATION	4
2.04 LOT CONVEYANCE	4
2.05 ACCESS EASEMENT	4
2.06 RIGHT OF ENJOYMENT	5
2.07 DELEGATION OF USE	5
2.08 RULES AND REGULATIONS	5
2.09 UTILITY EASEMENTS	5
2.10 EASEMENTS, LEASES, LICENSES AND CONCESSIONS	5
2.11 ASSOCIATION'S ACCESS.....	6
2.12 NO DEDICATION TO PUBLIC USE	6
2.13 EASEMENT FOR ENCROACHMENT	6
2.14 OWNERSHIP OF COMMON AREA.....	7
2.15 LEASE OF HOME.....	7
2.16 REAL ESTATE TAXES FOR COMMON AREA	7
ARTICLE THREE Maintenance.....	7
3.01 IN GENERAL	7
3.02 MAINTENANCE BY THE ASSOCIATION	7
3.03 MAINTENANCE BY OWNER.....	8
3.04 CERTAIN UTILITY COSTS.....	9
3.05 DAMAGE BY RESIDENT.....	10
3.06 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO THE COMMON AREA	10
3.07 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO HOMES AND HOME EXTERIORS	10
3.08 SPECIAL SERVICES	11
ARTICLE FOUR Insurance/Condemnation	11
4.01 HAZARD INSURANCE.....	11
4.02 INSURANCE TRUSTEE/USE OF PROCEEDS	12
4.03 OTHER INSURANCE	12
4.04 OWNER'S RESPONSIBILITY	13
4.05 WAIVER OF SUBROGATION.....	13
4.06 REPAIR OR RECONSTRUCTION.....	13
ARTICLE FIVE The Association	15
5.01 IN GENERAL	15
5.02 MEMBERSHIP	15
5.03 VOTING MEMBERS	15
5.04 MANAGERS.....	15
5.05 VOTING RIGHTS.....	15
5.06 MANAGERS LIABILITY	16
5.07 MANAGING AGENT.....	16
5.08 REPRESENTATION	16
5.09 DISSOLUTION.....	16
5.10 LITIGATION	16
ARTICLE SIX Assessments	17
6.01 PURPOSE OF ASSESSMENTS.....	17
6.02 COMMON ASSESSMENT	17
6.03 PAYMENT OF COMMON ASSESSMENT	18
6.04 REVISED ASSESSMENT.....	18
6.05 SPECIAL ASSESSMENT.....	18
6.06 CAPITAL RESERVE.....	19
6.07 INITIAL CAPITAL CONTRIBUTION.....	19
6.08 PAYMENT OF ASSESSMENTS	20

ARTICLE SEVEN	Collection of Charges and Remedies for Breach or Violation.....	20
7.01	CREATION OF LIEN AND PERSONAL OBLIGATION	20
7.02	COLLECTION OF CHARGES.....	20
7.03	NON-PAYMENT OF CHARGES	20
7.04	LIEN FOR CHARGES SUBORDINATED TO MORTGAGES	20
7.05	SELF-HELP BY MANAGERS.....	21
7.06	OTHER REMEDIES OF THE MANAGERS	21
7.07	COSTS AND EXPENSES.....	21
7.08	ENFORCEMENT BY OWNERS	21
7.09	ENFORCEMENT BY DECLARANT	21
7.10	BACKUP SPECIAL SERVICE AREA.....	22
ARTICLE EIGHT	Use Restrictions	22
8.01	INDUSTRY/SIGNS	22
8.02	UNSIGHTLY USES.....	22
8.03	SATELLITE DISHES/ANTENNAE.....	22
8.04	RESIDENTIAL USE ONLY	22
8.05	PARKING	23
8.06	OBSTRUCTIONS	23
8.07	PETS.....	23
8.08	NO NUISANCE	23
8.09	STRUCTURAL IMPAIRMENT	23
8.10	WATERING.....	23
8.11	BALCONIES / GRILLS.....	24
8.12	USE AFFECTING INSURANCE	24
ARTICLE NINE	Declarant's Reserved Rights and Special Provisions Covering Development Period.....	24
9.01	IN GENERAL	24
9.02	PROMOTION OF PROJECT.....	24
9.03	CONSTRUCTION ON PREMISES.....	24
9.04	GRANT OF EASEMENTS AND DEDICATIONS.....	25
9.05	DECLARANT CONTROL OF ASSOCIATION.....	25
9.06	OTHER RIGHTS.....	25
9.07	ASSIGNMENT BY DECLARANT	25
9.08	MATTERS AFFECTING COMMON AREA.....	25
9.09	ARCHITECTURAL CONTROLS	26
ARTICLE TEN	Amendments	26
10.01	SPECIAL AMENDMENTS	26
10.02	AMENDMENT	27
ARTICLE ELEVEN	First Mortgagees Rights	28
11.01	NOTICE TO FIRST MORTGAGEES	28
11.02	CONSENT OF FIRST MORTGAGEES	29
11.03	INSURANCE PROCEEDS/CONDEMNATION AWARDS	29
ARTICLE TWELVE	Annexing Additional Property	29
12.01	IN GENERAL	29
12.02	POWER TO AMEND	30
12.03	EFFECT OF SUPPLEMENTAL DECLARATION.....	30
ARTICLE THIRTEEN	Party Walls.....	31
13.01	PARTY WALL.....	31
13.02	RIGHTS IN PARTY WALL	31
13.03	DAMAGE TO PARTY WALL	31

13.04 CHANGE IN PARTY WALL	32
13.05 ARBITRATION	32
ARTICLE FOURTEEN Miscellaneous	32
14.01 NOTICE.....	32
14.02 CAPTIONS.....	32
14.03 SEVERABILITY.....	32
14.04 PERPETUITIES AND OTHER INVALIDITY	33
14.05 TITLE HOLDING LAND TRUST	33
14.06 DESIGNATED BUILDERS.....	33
14.07 WAIVER OF IMPLIED WARRANTY OF HABITABILITY AND OTHER WARRANTIES	34

DECLARATION FOR INDIAN PRAIRIE 204 TOWNHOMES

This Declaration is made by M/I Homes of Chicago, LLC, a Delaware limited liability company ("Declarant").

R E C I T A L S

The Development Area is legally described in Exhibit A hereto. Some or all of the Development Area shall be the subject of a phased development called Indian Prairie 204 Townhomes (the "Development"). The Development shall include dwelling units and other areas which will be maintained by the Association.

Initially, the Declarant shall subject the real estate which is legally described in Exhibit B hereto to the provisions of this Declaration as the Premises. From time to time the Declarant may subject additional portions of the Development Area to the provisions of this Declaration as Added Premises, as more fully described in Article Twelve.

All portions of the Premises not improved with a Home (including outlots owned by the Association and those portions of each Lot which are not improved with a Home), shall be designated as Common Area hereunder. In order to provide for the orderly and proper administration and maintenance of the Premises, the Declarant has formed (or will form) the Association under the Illinois Limited Liability Company Act. The Association shall have the responsibility for administering and maintaining the Common Area and certain portions of the Lots and Home Exteriors and shall set budgets and fix assessments to pay the expenses incurred in connection with such duties. Each Owner of a Lot shall be a member of the Association and shall be responsible for paying assessments with respect to the Lot owned by such Owner. It is not intended that the Association shall be a "common interest community association" as defined in Section 1-5 of the Common Interest Community Association Act (735 ILCS 160/1-5) or Section 9-102(a)(8) of the Code of Civil Procedure (735 ILCS 5/9-102(a)(8)).

During the construction and marketing of the Development, the Declarant shall retain certain rights set forth in this Declaration, which rights shall include, without limitation, the right, prior to the Turnover Date, to manage the affairs of the Association or to designate the Managers of the Association, as more fully described in Article Nine and in the Operating Agreement, and the right to come upon the Premises in connection with Declarant's efforts to sell Homes and other rights reserved in Article Nine.

NOW, THEREFORE, the Declarant hereby declares as follows:

ARTICLE ONE Definitions

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

1.01 ASSOCIATION: The Indian Prairie 204 Townhome Owners Association, LLC, an Illinois limited liability company, its successors and assigns.

1.02 BACKUP SPECIAL SERVICE AREA: A special service area which may be established by the Municipality to serve as a what is commonly referred to as a “Backup Special Service Area”, as more fully provided in Section 7.10.

1.03 CHARGES: The Common Assessment, any special assessment levied by the Association and/or any other charges or payments which an Owner is required to pay or for which an Owner is liable under this Declaration or the Operating Agreement.

1.04 COMMON AREA: Those portions of the Premises which are designated as Common Area in Exhibit B hereto from time to time and all improvements thereto and landscaping thereon. The Common Area shall generally consist of all portions of the Premises located outside of the Homes and the Home Exteriors, and improvements located thereon.

1.05 COMMON ASSESSMENT: The amounts which the Association shall assess and collect from the Owners to pay the Common Expenses and accumulate reserves for such expenses, as more fully described in Article Six.

1.06 COMMON EXPENSES: The expenses of administration (including management and professional services) of the Association; the expenses of the operation, maintenance, repair, replacement of landscaping and other improvements located on the Common Area; the expenses of providing the services required to be furnished by the Association under Section 3.02; premiums for insurance policies maintained by the Association hereunder; the cost of general and special real estate taxes, if any, levied or assessed against the Common Area (which is not part of a Lot); if not separately metered or charged to the Owners, the cost of waste removal, scavenger services, water, sewer, or other necessary utility services to the Homes; and any expenses designated as Common Expenses hereunder. Notwithstanding the foregoing, Common Expenses shall not include any payments made out of Capital Reserves.

1.07 COUNTY: DuPage County, Illinois or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the County as of the Recording of this Declaration.

1.08 COST SHARING AND CROSS EASEMENT DECLARATION:

1.09 DECLARANT: M/I Homes of Chicago, LLC, a Delaware limited liability company, its successors and assigns.

1.10 DECLARATION: This instrument with all Exhibits hereto, as amended or supplemented from time to time.

1.11 DESIGNATED BUILDER: Any legal entity which is designated, from time to time, by the Declarant as a “Designated Builder” in a Supplemental Declaration, as more fully provided in Section 15.06 hereof.

1.12 DEVELOPMENT AREA: The real estate described in Exhibit A hereto with all improvements thereon and rights appurtenant thereto, as Exhibit A may be amended as provided in Section 10.01. Exhibit A is attached hereto for informational purposes only and no covenants, conditions, restrictions, easements, liens or changes shall attach to any part of the real estate described therein, except to the extent that portions thereof are described in Exhibit B and expressly made subject to the provisions of this Declaration as part of the Premises.

1.13 FIRST MORTGAGEE: The holder of a bona fide first mortgage, first trust deed or equivalent security interest covering a Lot.

1.14 HOME: That portion of a Lot which is improved with a dwelling unit.

1.15 HOME EXTERIOR: The roof, gutters, downspouts, foundation or slab, footings, sidewalks, steps, decks, patios and outer surface of exterior walls of a Home. The Home Exterior shall not include windows, window frames, window glass, doors (including garage and storm doors) or screening which are part of a Home.

1.16 LOT: A subdivided lot which is designated in Exhibit B as a "Lot".

1.17 MANAGER: The manager or managers from time to time as appointed or elected as provided in this Declaration or the Operating Agreement.

1.18 MUNICIPALITY: The City of Aurora, Illinois, or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the Municipality as of the Recording of this Declaration.

1.19 OPERATING AGREEMENT: The Operating Agreement of the Association.

1.20 OWNER: A Record owner, whether one or more persons, of fee simple title to a Lot, including a contract seller, but excluding those having such interest merely as security for the performance of an obligation. The Declarant shall be deemed to be an Owner with respect to each Lot owned by the Declarant.

1.21 PERSON: A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.22 PLAT:

1.23 PREMISES: Those portions of the Development Area which are legally described in Exhibit B hereto, with all improvements thereon and rights appurtenant thereto. Declarant shall have the right, but not the obligation, to make additional portions of the Development Area subject to this Declaration as part of the Premises as more fully provided in Article Twelve.

1.24 RECORD: To record in the office of the Recorder of Deeds for the County.

1.25 RESIDENT: An individual who resides in a Home.

1.26 TURNOVER DATE: The date on which the right of the Declarant to manage the affairs of the Association is terminated under Section 9.05.

1.27 VOTING MEMBER: The individual who shall be entitled to vote in person or by proxy at meetings of the Owners, as more fully set forth in Article Five.

ARTICLE TWO
Scope of Declaration/Certain Easements

2.01 PROPERTY SUBJECT TO DECLARATION: Declarant, as the owner of fee simple title to the Premises, expressly intends to and by Recording this Declaration, does hereby subject the Premises to the provisions of this Declaration. Declarant shall have the right from time to time to subject additional portions of the Development Area to the provisions of this Declaration as Added Premises, as provided in Article Twelve hereof. Nothing in this Declaration shall be construed to obligate the Declarant to subject to this Declaration as Premises any portion of the Development Area other than those portions which are described in Exhibit B hereto or which are added to Exhibit B by Supplemental Declarations Recorded by Declarant pursuant to Article Twelve.

2.02 CONVEYANCES SUBJECT TO DECLARATION: All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times inure to the benefit of and be binding on any Person having at any time any interest or estate in the premises, and their respective heirs, successors, personal representatives or assigns, regardless of whether the deed or other instrument which creates or conveys the interest makes reference to this Declaration.

2.03 DURATION: Except as otherwise specifically provided herein the covenants, conditions, restrictions, easements, reservations, liens, and charges, which are granted, created, reserved or declared by this Declaration shall be appurtenant to and shall run with and bind the land for a period of forty (40) years from the date of Recording of this Declaration and for successive periods of ten (10) years each unless revoked, changed or amended in whole or in part as provided in Section 10.02.

2.04 LOT CONVEYANCE: Once a Lot has been conveyed by the Declarant to a bona fide purchaser for value, then any subsequent conveyance or transfer of ownership of the Lot shall be of the entire Lot and there shall be no conveyance or transfer of a portion of the Lot without the prior written consent of the Managers.

2.05 ACCESS EASEMENT: Each Owner of a Lot shall have a non-exclusive perpetual easement for ingress to and egress from his Lot to public streets and roads over and across the driveways and walkways located on the Common Area, which easement shall run with the land, be appurtenant to and pass with title to every Lot. Any governmental authority which has jurisdiction over the Premises shall have a non-exclusive easement of access over roads and driveways located on the Common Area for police, fire, ambulance, waste removal, snow

removal and storage of snow removed from public rights of way within the Premises, or for the purpose of furnishing municipal or emergency services to the Premises. The Association, its employees, agents and contractors, shall have the right of ingress to, egress from, and parking on the Common Area, and the right to store equipment on the Common Area, for the purpose of furnishing any maintenance, repairs or replacements of the Common Area and Home Exteriors, as required or permitted hereunder.

2.06 RIGHT OF ENJOYMENT: Each Owner shall have the non-exclusive right and easement to use and enjoy the Common Area and the exclusive right to use and enjoy the Owner's Home, Home Exterior and any patio or deck constructed on the Owner's Lot by the Declarant or as permitted under Section 3.07. Such rights and easements shall run with the land, be appurtenant to and pass with title to every Lot, and shall be subject to and governed by the laws, ordinances and statutes of jurisdiction, the provisions of this Declaration, the Operating Agreement, and the reasonable rules and regulations from time to time adopted by the Association, including the right of the Association to come upon a Lot to furnish services hereunder.

2.07 DELEGATION OF USE: Subject to the provisions of this Declaration, the Operating Agreement, and the reasonable rules and regulations from time to time adopted by the Association, any Owner may delegate his right to use and enjoy the Common Area to Residents of the Owner's Home. An Owner shall delegate such rights to tenants and contract purchasers of the Owner's Home who are Residents.

2.08 RULES AND REGULATIONS: The use and enjoyment of the Premises shall at all times be subject to reasonable rules and regulations duly adopted by the Association from time to time.

2.09 UTILITY EASEMENTS: The Municipality and all public and private utilities (including cable companies) serving the Premises 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 for the purpose of providing utility services to the Premises or any other portion of the Development Area. In addition, each Owner of a Home shall have a perpetual easement for the continued existence and use of water, sewer, electric, gas or other utility lines, and/or components of other systems which were originally installed by the Declarant or a utility company and which serve the Owner's Home, which utility lines or wiring may be located in the Common Area or any other portion of the Premises, including, without limitation, under or through another Home.

2.10 EASEMENTS, LEASES, LICENSES AND CONCESSIONS: The Association shall have the right and authority from time to time to lease or grant easements, licenses, or concessions with regard to any portions or all of the Common Area for such uses and purposes as the Managers deem to be in the best interests of the Owners and which are not prohibited hereunder, including, without limitation, the right to grant easements for utilities or any other purpose which the Managers deem to be in the best interests of the Owners. Any and all proceeds from leases, easements, licenses or concessions with respect to the Common Area shall be used to pay the Common Expenses. Also, the Association shall have the right and power to

dedicate any part or all of the roads or parking areas located on the Common Area to the Municipality or other governmental authority which has jurisdiction over the Common Area. Each person, by acceptance of a deed, mortgage, trust deed, other evidence of obligation, or other instrument relating to a Lot, shall be deemed to grant a power coupled with an interest to the Managers, as attorney-in-fact, to grant, cancel, alter or otherwise change the easements provided for in this Section. Any instrument executed pursuant to the power granted herein shall be executed by the President and attested to by the Secretary of the Association and duly Recorded.

2.11 ASSOCIATION'S ACCESS: The Association shall have the right and power to come onto any Lot, Home, or Home Exterior for the purpose of furnishing the services required to be furnished hereunder or enforcing its rights and powers hereunder.

2.12 NO DEDICATION TO PUBLIC USE: Except for easements granted or dedications made as permitted in Section 2.10, 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.

2.13 EASEMENT FOR ENCROACHMENT: In the event that by reason of the construction, repair, reconstruction, settlement or shifting of an improvement to a Lot, any improvement which is intended to service and/or be part of the Lot shall encroach upon any part of any other Lot or upon the Common Area or any improvement to the Common Area shall encroach upon any part of a Lot, then there shall be deemed to be an easement in favor of and appurtenant to such encroaching improvement for the continuance, maintenance, repair and replacement thereof; provided, however, that in no event shall an easement for any encroachment be created in favor of any Owner (other than Declarant), if such encroachment occurred due to the intentional, willful, or negligent conduct of such Owner or his agent. Without limiting the foregoing, the Owner of each Lot shall have an easement appurtenant to his Lot for the continuance, maintenance, repair and replacement of the following improvements, if any, which encroach onto another Lot or the Common Area:

- (a) the eaves, gutters, downspouts, fascia, flashings, and like appendages which serve the Home or the Lot;
- (b) the chimney which serves the Home on the Lot;
- (c) the air conditioning equipment which serves the Home on the Lot; or
- (d) balconies, steps, porches, walkways, decks, door entries and patios which serve the Home on the Lot.

The Person who is responsible for the maintenance of any encroaching improvement for which an easement for continuance, maintenance, repair and replacement thereof is granted under this Section shall continue to be responsible for the maintenance of such encroaching improvement and the Person who is responsible for the maintenance of the real estate upon which such

improvement encroaches shall not have the duty to maintain, repair or replace any such encroaching improvement unless otherwise provided in this Declaration.

2.14 OWNERSHIP OF COMMON AREA: Those portions of the Common Area, if any, which are part of a Lot shall be owned by the Owner of the Lot. Those portions of the Common Area which are not part of a Lot, shall be conveyed to the Association free of mortgages no later than ninety (90) days after such portion is made subject hereto.

2.15 LEASE OF HOME: Any Owner shall have the right to lease all (and not less than all) of his Home subject to the following provisions:

(a) No Home shall be leased for less than six (6) months or for hotel or transient purposes.

(c) No Owner may lease more than one (1) Home owned by the Owner;

(d) Any lease shall be in writing and shall provide that such lease shall be subject to the terms of this Declaration and that any failure of the lessee to comply with the terms of this Declaration shall be a default under the lease. A lessee shall be bound by the provisions hereof regardless of whether the lease specifically refers to this Declaration.

(e) Each Owner who leases his Home shall be required to furnish the Association with a copy of the lease and shall promptly notify the Association of any change in status of the lease. The Association shall maintain a record of such information with respect to all leased Homes.

2.16 REAL ESTATE TAXES FOR COMMON AREA: If a tax bill is issued with respect to Common Area (which is not part of a Lot) which is made subject to this Declaration in the middle of a tax year (regardless of when it is conveyed to the Association), then the tax bill shall be prorated so that the Declarant shall be responsible for the payment of that portion of the tax bill from January 1st of the tax year to the date that such Common Area is made subject to this Declaration, and the Association shall be responsible for the balance of the tax bill for such year, and any tax bills for subsequent years.

ARTICLE THREE

Maintenance

3.01 IN GENERAL: The restrictions and limitations contained in this Article shall be subject to the rights of the Declarant set forth in Article Nine.

3.02 MAINTENANCE BY THE ASSOCIATION:

(a) The Association shall furnish the following and the cost thereof shall be Common Expenses:

(i) Maintenance (including snow removal), repair and replacement of the private street designated as “ingress/egress easement” on the Plat, and all private driveways and walkways located on the Premises.

(ii) Maintenance, repair and replacement of improvements located on the Common Area.

(iii) Subject to the provisions of Section 3.06 and 3.07, grass cutting and maintenance of grass and landscaping located on the Premises; however, the watering of grass, shrubs, trees and other foliage on the Premises shall be furnished by the Owners and/or Residents pursuant to rules, regulations and procedures adopted from time to time by the Managers.

(iv) To the extent not maintained by the Municipality or a utility company, maintenance, repair and replacement of the water, sewer, electric, gas and other utility lines and components of other systems, if any, which (a) are located on the Premises, including, without limitation, those located in the Common Area and those which run under or through Homes, and (b) serve more than one Home.

(b) The Association shall furnish all maintenance (including periodic painting), repairs and replacements to Home Exteriors, excluding, however, exterior window washing which shall be the responsibility of the Owner of each Home, and the cost thereof shall be Common Expenses.

(c) The Association shall maintain the grass, shrubs, trees, and flowers, if any, installed by the Declarant on the Common Area ("Initial Plantings") in accordance with generally accepted landscape maintenance standards, including mowing, trimming, fertilization, pruning, re-mulching, applications of insect and disease control, as needed, and any other maintenance which will promote the health of the Initial Plantings. If the Association fails to maintain the Initial Plantings in accordance with generally acceptable landscape maintenance standards and Initial Plantings die or decline as a result of this failure, then, the Association shall be responsible for the replacement of the declining or dead Initial Plantings, including, but not limited to replacements required by the Municipality in connection with the Municipality's acceptance of the Initial Plantings. All expenses incurred under this subsection shall be Common Expenses.

3.03 MAINTENANCE BY OWNER:

(a) Except as otherwise specifically provided for in this Declaration, each Owner shall be responsible for the maintenance, repair and replacement of his Home.

(b) The maintenance (other than periodic exterior painting), repairs and replacements of windows, window frames, window glass, doors (including garage and storm doors) and screening on a Home shall be the responsibility of the Owner of the Home; however, at the option of the Managers, such work shall be furnished by the Association and the cost thereof charged to the Owner of the Home with respect to which the work is done based on actual cost, as determined by the Managers in its or their reasonable judgment.

(c) To the extent not maintained by a utility company, maintenance, repair and replacement of water, sewer, electric, gas and other utility lines, and components of other systems, if any, which serve only the Owner's Home and are located on any portion of the Premises, including, without limitation, on the Common Area, under the Owner's Home or other Homes, or on another Owner's Lot, shall be the responsibility of the Owner of the Home served by any such utility lines or system.

(d) If, in the judgment of the Managers, an Owner fails to maintain those portions of the Owner's Home which the Owner is responsible for maintaining hereunder in good condition and repair or the appearance of such portions is not of the quality of that of other Homes in the Development or in compliance with rules and regulations adopted by the Managers, then the Managers may, in its or their discretion, take the following action:

(i) advise the Owner of the work which must be done and allow the Owner at least twenty (20) days (or less in the case of an emergency) to cause the work to be done; and

(ii) if the work is not done to the satisfaction of the Managers, in its or their sole judgment, then the Managers may seek injunctive relief, levy a fine and/or cause such work to be done and the cost thereof shall be a Charge payable by the Owner to the Association upon demand.

(e) Repairs and replacements which are required due to occurrences which are normally covered by insurance required to be obtained by the Association under Section 4.01 shall be made as provided in Section 4.06.

3.04 CERTAIN UTILITY COSTS: Certain utility costs incurred in connection with the use, operation and maintenance of the Common Area and Home Exteriors may not be separately metered and billed to the Association. Without limiting the foregoing, the Association shall have the right to use water from taps or spigots which may be located on a Lot for the purpose of watering landscaping on the Common Areas. If the cost for such water or other utilities is metered and charged to individual Homes rather than being separately metered and charged to the Association, then the following shall apply:

(a) If, in the opinion of the Managers, each Owner is sharing in a fair and equitable manner the cost for such service, then no adjustment shall be made and each Owner shall pay his own bill; or

(b) If in the opinion of the Managers, the Owner of a Home is being charged disproportionately for costs allocable to the Common Area and Home Exteriors, then the Association shall pay, or reimburse such Owner, an amount equal to the portion of the costs which in the reasonable determination of the Managers is properly allocable to the Common Area and Home Exteriors and the amount thereof shall be Common Expenses hereunder.

Any determinations or allocations made hereunder by the Managers shall be final and binding on all parties.

3.05 DAMAGE BY RESIDENT: If, due to the act or omission of a Resident of a Home, or of a household pet or guest or other authorized occupant or invitee of the Owner of a Lot, damage shall be caused to the Common Area or a Home Exterior and maintenance, repairs or replacements shall be required thereby, which would otherwise be a Common Expense, then the Owner of the Lot shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Managers, to the extent not covered by insurance carried by the Association or an Owner.

3.06 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO THE COMMON AREA:

(a) No alterations, additions or improvements shall be made to the Common Area without the prior approval of the Managers; and

(b) The Association may cause alterations, additions or improvements to be made to the Common Area, and the cost thereof shall be paid from a special assessment, as more fully described in Section 6.05.

(c) If the Association shall alter, in any way, landscaping which was installed by the Declarant on the Common Area in accordance with plans approved by the Municipality, and if the Municipality requires that the altered area be returned to its original state, then the Association shall be responsible for restoring the altered area in accordance with the plans approved by the Municipality and the cost thereof shall be a Common Expense.

3.07 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO HOMES AND HOME EXTERIORS: No additions, alterations or improvements shall be made to any Lot (including any portion of a Home which is visible from outside the Home) by an Owner without the prior written consent of the Managers and, until the Declarant no longer holds title to any portion of the Development Area, the Declarant. The Managers may (but shall not be required to) condition its or their consent to the making of an addition, alteration or improvement to a Lot which requires the consent of the Managers upon the Owner's agreement either (i) to be solely responsible for the maintenance of such addition, alteration or improvement, subject to such standards as the Managers may from time to time set, or (ii) if the addition, alteration or improvement is required to be maintained hereunder by the Association as part of the Common Expenses, to pay to the Association from time to time the additional cost of maintenance as a result of the addition, alteration or improvement. If an addition, alteration or improvement which requires consent of the Managers and/or Declarant hereunder is made to a Lot by an Owner without the prior written consent of the Managers or Declarant, or both, as applicable, then (i) the Managers may, in its or their discretion, take any of the following actions; and (ii) until such time as the Declarant no longer owns or controls title to any portion of the Development Area, the Declarant may, in its discretion take any of the following actions:

(a) Require the Owner to remove the addition, alteration or improvement and restore the Lot to its original condition, all at the Owner's expense; or

(b) If the Owner refuses or fails to properly perform the work required under (a), the Managers may cause such work to be done and may charge the Owner for the cost thereof as determined by the Managers or the Declarant, as applicable; or

(c) Ratify the action taken by the Owner, and the Managers may (but shall not be required to) condition such ratification upon the same conditions which it may impose upon the giving of its or their prior consent under this Section

3.08 SPECIAL SERVICES: The Managers may furnish to an Owner or Owners special services relating to the use and occupancy of a Lot or Lots and may charge the cost of providing such services to the Owner or Owners who benefit from the service. Without limiting the foregoing, the Association may contract with a provider of a special service, such as satellite TV service, cable TV service, internet access or other similar service, either make such service available to all Lots or offer such service to each of the Owners on a voluntary basis. The Managers may charge the Owner of each Lot which receives any such service for the reasonable cost of providing such service, which may be allocated in equal shares for each of the Lots which is served or on such other reasonable basis as the Managers may deem appropriate. Any amount charged to an Owner for services furnished pursuant to this Section shall be due and payable at such time or times as designated by the Managers, and failure to pay any such amount shall give rise to a lien provided for in Section 6.01.

ARTICLE FOUR Insurance/Condemnation

4.01 HAZARD INSURANCE: The Managers shall have the authority to and shall obtain insurance for the Premises and all improvements thereto against loss or damage by fire and such other hazards as may be required under applicable requirements of Fannie Mae from time to time, as the Managers may deem desirable, or as reasonably required by First Mortgagees, for the full insurable replacement cost of the Homes, including fixtures located within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the Homes; provided, that, unless specifically obtained by the Managers, the insurance coverage shall not be required to include any "Improvements and Betterments" to a Home. For purposes hereof, Improvements and Betterments shall include all decorating, fixtures and furnishings installed or added to and located within the boundaries of the Home, including without limitation, electrical fixtures, appliances, air conditioning and heating equipment, water heaters, built in cabinets, floor coverings, including, but not limited to, carpeting, wood and vinyl flooring, wall coverings and ceiling coverings, including, but not limited to, paint and paneling. Premiums for such insurance shall be Common Expenses. Such insurance coverage shall be written in the name of, losses under such policies shall be adjusted by, and the proceeds of such insurance shall be payable to, the Managers as trustee for each of the Owners. All such policies of insurance (i) shall contain standard mortgage clause endorsements in favor of the First Mortgagees as their respective interests may appear, (ii) shall provide that the insurance, as to the interests of the Managers, shall not be invalidated by any act or neglect of any Owner, (iii) to the extent

possible, shall provide that such policy shall not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' written notice to the First Mortgagee of each Lot, and (iv) shall contain waivers of subrogation with respect to the Association and its managers, directors, officers, employees and agents (including the managing agent), Owners, occupants of the Home, First Mortgagees, the Declarant and shall name all such parties as additional insured parties as their interests may appear.

4.02 INSURANCE TRUSTEE/USE OF PROCEEDS: The Managers may engage the services of any bank or trust company authorized to do trust business in Illinois to act as trustee, agent or depository on behalf of the Managers for the purpose of receiving and disbursing the insurance proceeds resulting from any loss, upon such terms as the Managers shall determine consistent with the provisions of this Declaration. The fees of such corporate trustee shall be Common Expenses. In the event of any loss in excess of \$100,000.00 in the aggregate, the Managers shall engage a corporate trustee as aforesaid. In the event of any loss resulting in the destruction of the major portion of one or more Homes, the Managers shall engage a corporate trustee as aforesaid upon the written demand of the First Mortgagee or any Owner of any Home so destroyed. The rights of First Mortgagees under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein contained, at all times be subject to the provisions of this Declaration with respect to the application of insurance proceeds to the repair or reconstruction of the Homes. Payment by an insurance company to the Managers or to such corporate trustee of the proceeds of any policy, and the receipt of a release from the Managers of the company's liability under such policy, shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust under which proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or see to the application of any payments of the proceeds of any policy by the Managers or the corporate trustee.

4.03 OTHER INSURANCE: The Managers shall also have the authority to and shall obtain the following insurance:

(a) Comprehensive public liability and property damage insurance against claims for personal injury or death or property damage suffered by the public or by any Owner occurring in, on or about the Premises or upon, in or about the streets, private drives and passageways and other areas adjoining the Premises, in such amounts as the Managers shall deem desirable (but not less than \$1,000,000 covering all claims for personal injury and/or property damage arising out of a single occurrence).

(b) Such workers compensation insurance as may be necessary to comply with applicable laws.

(c) Employer's liability insurance in such amount as the Managers shall deem desirable.

(d) Fidelity bond indemnifying the Association, the Managers and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling the funds of the Association, the Managers

or the Owners in such amount as the Managers shall deem desirable and as required applicable regulations of Fannie Mae.

(e) Directors and officers (or the equivalent thereof) liability insurance covering the Managers.

(f) Such other insurance in such reasonable amounts as is required under applicable regulations of Fannie Mae or the Managers shall deem desirable.

Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. To the extent possible, all of such policies shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the Association and First Mortgagees who specifically request such notice. The premiums for such insurance shall be Common Expenses.

4.04 OWNER'S RESPONSIBILITY: Unless expressly advised to the contrary by the Managers, each Owner shall obtain his own insurance on the Improvements and Betterments within the Owner's Home (as defined in Section 4.01), and the contents of the Owner's Home and furnishings and personal property therein, and the Owner's personal liability to the extent not covered by the liability insurance for all of the Owners obtained as part of the Common Expenses as above provided, and the Managers shall have no obligation whatsoever to obtain any such insurance coverage on behalf of the Owners. Except as expressly determined by the Managers, the Managers shall not be responsible for obtaining insurance on Improvements and Betterments and shall not be obligated to apply any insurance proceeds from policies it is obligated to maintain hereunder to restore the affected Home to a condition better than the condition existing prior to the making or installation of the Improvements and Betterments.

4.05 WAIVER OF SUBROGATION: The Association and each Owner hereby waive and release any and all claims which it or he may have against any other Owner, the Association, its Managers, the Declarant and the managing agent if any, and their respective employees and agents, for damage to the Home or to any personal property located in a Home caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance, and to the extent this release is allowed by policies for such fire or other casualty insurance.

4.06 REPAIR OR RECONSTRUCTION:

(a) In the case of damage by fire or other disaster to any Home (a "Damaged Improvement") where the insurance proceeds are sufficient to repair or reconstruct the Damaged Improvement, then the proceeds shall be used by the Association to repair or reconstruct the Damaged Improvement.

(b) In the case of damage by fire or other disaster to any Home or building which contains Homes where the insurance proceeds are insufficient to repair or reconstruct the Damaged Improvement or the Damaged Improvement cannot be reconstructed as originally

designed and built because of zoning, building or other applicable laws, ordinances or regulations, the following procedure shall be followed:

(1) A meeting of the Owners shall be held not later than the first to occur of (i) the expiration of thirty (30) days after the final adjustment of the insurance claims or (ii) the expiration of ninety (90) days after the occurrence which caused the damage.

(2) At the meeting, the Managers shall present a plan for the repair or reconstruction of the Damaged Improvement and an estimate of the cost of repair or reconstruction, together with an estimate of the amount thereof which must be raised by way of special assessment and a proposed schedule for the collection of a special assessment to pay the excess cost.

(3) A vote shall then be taken on the question of whether or not the Damaged Improvement shall be repaired or reconstructed based on the information provided by the Managers under (2) above, including the proposed special assessment. The Damaged Improvement shall be repaired or reconstructed and the proposed special assessment shall be levied only upon the affirmative vote of Voting Members representing at least three-fourths (3/4) of the votes cast.

(4) If the Voting Members do not vote to repair or reconstruct the Damaged Improvement at the meeting provided for in (1) above, then the Managers may, at its or their discretion, call another meeting or meetings of the Owners to reconsider the question of whether or not the Damaged Improvement shall be repaired or reconstructed.

(5) If the Voting Members do not vote to repair or reconstruct the Damaged Improvement under subsection (4) above, then the Managers may, with the consent of Owners representing 75% of the Homes in the damaged building and First Mortgagees representing 75% of the Homes (by number) subject to Mortgages in the building, amend this Declaration to withdraw the building which includes the Damaged Improvement from the terms hereof (except as provided below). The payment of just compensation, or the allocation of any insurance or other proceeds to any withdrawing or remaining Owner shall be made to such Owner and his First Mortgagee, as their interests may appear, on an equitable basis, determined by the Managers. From and after the effective date of the amendment referred to above in this paragraph, the Owner of a Home located in the building which is withdrawn shall have no responsibility for the payment of assessments which would have been payable with respect to the Lot if the amendment had not been Recorded; provided, that, the Lot shall continue to be subject to the provisions of Section 3.07 hereof and upon issuance of an occupancy permit for a residential unit constructed on a Lot removed from the terms hereof as provided above, the Lot shall thereupon be subject to the terms hereof.

(c) If the Damaged Improvement is repaired or reconstructed, it shall be done in a workmanlike manner and the Damaged Improvement, as repaired or reconstructed, shall be substantially similar in design and construction to the improvements on the Premises as they

existed prior to the damage, with any variations or modifications required to comply with applicable law.

(d) If the Damaged Improvement is not repaired or reconstructed, then the damaged portion of the building shall be razed, or secured and otherwise maintained in conformance with the rules or standards adopted from time to time by the Managers. Any reconstruction of the building shall be subject to the provisions of Section 3.07.

ARTICLE FIVE The Association

5.01 IN GENERAL: Declarant has caused or shall cause the Association to be organized as a limited liability company under the laws of the State of Illinois. The Association shall be the governing body for all of the Owners for the administration and operation of the Common Area and for the maintenance repair and replacement of the Common Area and certain portions of the Home Exteriors as provided herein.

5.02 MEMBERSHIP: Each Owner shall be a member of the Association. There shall be one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. The Association shall be given written notice of the change of ownership of a Lot within ten (10) days after such change.

5.03 VOTING MEMBERS: Subject to the provisions of Section 9.05, voting rights of the members of the Association shall be vested exclusively in the Voting Members. One individual shall be designated as the "Voting Member" for each Lot. The Voting Member or his proxy shall be the individual who shall be entitled to vote at meetings of the Owners. If the Record ownership of a Lot shall be in more than one person, or if an Owner is a trustee, corporation, partnership or other legal entity, then the Voting Member for the Lot shall be designated by such Owner or Owners in writing to the Managers and, if in the case of multiple individual Owners, no designation is given, then the Managers at its or their election may recognize an individual Owner of the Lot as the Voting Member for such Lot.

5.04 MANAGERS: Prior to the Turnover Date, the Managers shall be the Declarant, or one or more entities or persons designated by the Declarant from time to time, who need not be Owners or Voting Members. After the Turnover Date, the Managers shall consist of that number of individuals provided for in the Operating Agreement, each of whom shall be an Owner or Voting Member and, except for the Declarant, must be a Resident.

5.05 VOTING RIGHTS: Prior to the Turnover Date, all of the voting rights at each meeting of the Association shall be vested exclusively in the Declarant and the Owners shall have no voting rights. From and after the Turnover Date, all of the voting rights at any meeting of the Association shall be vested in the Voting Members and each Voting Member shall have one vote for each Lot which the Voting Member represents. From and after the Turnover Date any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided

in the Operating Agreement) upon an affirmative vote of a majority by the Voting Members present at such meeting, except as otherwise provided herein or in the Operating Agreement.

5.06 MANAGERS LIABILITY: The Managers of the Association shall not be personally liable to the Association or the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Managers except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless the Declarant and each of the Managers, and its or their heirs, executors or administrators, against all contractual and other liabilities to the Association, the Owners or others arising out of contracts made by or other acts of the Managers on behalf of the Owners or the Association or arising out of their status as Managers unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other in which any such Managers may be involved by virtue of such person being or having been such Manager; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of his duties as such Manager, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Managers there is not reasonable ground for such person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as such Manager.

5.07 MANAGING AGENT: The Declarant (or an entity affiliated with the Declarant) may be engaged by the Association to act as the managing agent for the Association and as managing agent shall be paid a reasonable fee for its services as fixed by a written agreement between the Association and the Declarant (or an entity controlled by the Declarant). Any management agreement entered into by the Association prior to the Turnover Date shall have a term of not more than two years and shall be terminable by the Association without payment of a termination fee on ninety (90) days written notice.

5.08 REPRESENTATION: The Association shall have the power and right to represent the interests of all of the Owners in connection with claims and disputes affecting the Common Area and Home Exteriors. Without limiting the foregoing, the Association shall have the power after the Turnover Date to settle warranty disputes or other disputes between the Association, the Owners, and the Declarant affecting the construction, use or enjoyment of the Common Area and Home Exteriors and any such settlement shall be final and shall bind all of the Owners.

5.09 DISSOLUTION: To the extent permissible under applicable law, in the event of the dissolution of the Association, any Common Area owned by the Association shall be conveyed to the Owners as tenants in common.

5.10 LITIGATION: No judicial or administrative proceedings shall be commenced or prosecuted by the Association without first holding a special meeting of the members and

obtaining the affirmative vote of Voting Members representing at least seventy-five percent (75%) of the Lots to the commencement and prosecution of the proposed action. This Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration, the Operating Agreement or rules and regulations adopted by the Managers (including, without limitation, an action to recover Charges or to foreclose a lien for unpaid Charges) or (b) counterclaims brought by the Association in proceedings instituted against it.

ARTICLE SIX
Assessments

6.01 PURPOSE OF ASSESSMENTS: The assessments levied by the Association shall be exclusively to administer the affairs of the Association, to pay the Common Expenses, and to accumulate reserves for any such expenses.

6.02 COMMON ASSESSMENT: Each year on or before December 1, the Managers shall adopt and furnish each Owner with a budget for the ensuing calendar year, which shall show the following with reasonable explanations and itemizations:

- (a) The estimated Common Expenses;
- (b) The estimated amount, if any, to maintain adequate reserves for Common Expenses including, without limitation, amounts to maintain the Capital Reserve;
- (c) The estimated net available cash receipts from the operation and use of the Common Area, plus the estimated excess funds, if any, from the current year's assessments;
- (d) The amount of the "Common Assessment" payable by the Owners, which is hereby defined as the amount determined in (a) above, plus the amount determined in (b) above, minus the amount determined in (c) above;
- (e) That portion of the Common Assessment which shall be payable by the Owner of each Lot which is subject to assessment hereunder each month until the next Common Assessment or revised Common Assessment becomes effective, which monthly amount shall be equal to the Common Assessment, divided by the number of Lots, divided by twelve (12), so that each Owner shall pay equal Common Assessments for each Lot owned.

Anything herein to the contrary notwithstanding the provisions of this paragraph shall apply with respect to the period prior to the Turnover Date. Any budget ("Stabilized Budget") prepared by the Managers prior to the Turnover Date shall be based on the assumptions that (i) the Development has been fully constructed as shown on Declarant's then current plan for the Development ("Declarant's Development Plan") and (ii) all proposed Homes have been sold and are occupied. The Declarant's Development Plan shall be kept on file with the Association and may be modified from time to time by Declarant. Prior to the Turnover Date, each owner of a Lot (other than Declarant) shall pay a Common Assessment equal to the total cash needs, as

shown on the Stabilized Budget, divided by the total number of proposed Homes, as shown on the Declarant's Development Plan, divided by 12, so that each Owner (other than Declarant) will pay, with respect to each Lot owned, a monthly Common Assessment equal to what such Owner would be paying with respect to the Owner's Lot if the Development were fully constructed pursuant to the Declarant's Development Plan and all proposed Homes have been built and are occupied. The Declarant shall not be obligated to pay any Common Assessments to the Association prior to the Turnover Date. However, if with respect to the period commencing on the date of the Recording of this Declaration and ending on the Turnover Date, the amount of Common Assessments and working capital contributions under Section 6.07 payable (as opposed to paid) by Owners (other than Declarant) less the portions thereof which are to be added to Reserves is less than the Common Expenses actually incurred with respect to such period, then the Declarant shall pay the difference to the Association. From time to time prior to the Turnover Date, the Declarant may (but shall not be obligated to) advance to the Association funds to be used by the Association to pay its expenses ("Advanced Funds"). A final accounting and settlement of the amount, if any, owed by Declarant to the Association shall be made as soon as practicable after the Turnover Date. If, and to the extent that, the final accounting determines that the Advanced Funds, if any, are less than the amount owed by the Declarant to the Association pursuant to this Section, the Declarant shall pay the difference to the Association. If, and to the extent that, the final accounting determines that the Advanced Funds, if any, exceed the amount owed by the Declarant to the Association pursuant to this Section, then the Association shall pay such excess to the Declarant.

6.03 PAYMENT OF COMMON ASSESSMENT: On or before the 1st day of January of the ensuing calendar year, and on the first day of each month thereafter until the effective date of the next annual or revised Common Assessment, each Owner of a Lot which is subject to assessment shall pay to the Association, or as the Managers may direct, that portion of the Common Assessment which is payable by each Owner of a Lot under Section 6.02. For purposes hereof, a Lot shall only be subject to assessment hereunder from and after such time as a temporary, conditional or permanent occupancy certificate has been issued with respect to the Home constructed thereon.

6.04 REVISED ASSESSMENT: If the Common Assessment proves inadequate for any reason (including nonpayment of any Owner's assessment) or proves to exceed funds reasonably needed, then the Managers may increase or decrease the assessment payable under Section 6.02(e) by giving written notice thereof (together with a revised budget and explanation for the adjustment) to each Owner not less than ten (10) days prior to the effective date of the revised assessment.

6.05 SPECIAL ASSESSMENT: After the Turnover Date, the Managers may levy a special assessment as provided in this Section (i) to pay (or build up reserves to pay) expenses other than Common Expenses incurred (or to be incurred) by the Association from time to time for a specific purpose including, without limitation, to make alterations, additions or improvements to the Common Area, or any other property owned or maintained by the Association; or (ii) to cover an unanticipated deficit under the prior year's budget. Any special assessment shall be levied against all of Lots in equal shares. No special assessment shall be adopted without the affirmative vote of Voting Members representing at least two-thirds (2/3) of

the votes cast on the question. The Managers shall serve notice of a special assessment on all Owners by a statement in writing giving the specific purpose and reasons therefor in reasonable detail, and the special assessment shall be payable in such manner and on such terms as shall be fixed by the Managers. Any assessments collected pursuant to this Section (other than those to cover an unanticipated deficit under the prior year's budget) shall be segregated in a special account and used only for the specific purpose set forth in the notice of assessment.

6.06 CAPITAL RESERVE: The Association shall segregate and maintain a special reserve account to be used solely for making capital expenditures in connection with the Common Area and those portions of the Home Exteriors with respect to which the Association is responsible for repair and replacement (the "Capital Reserve"). The Managers shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of improvements to the Common Area, the portions of the Home Exteriors for which the Association is responsible and other property owned by the Association and periodic projections of the cost of anticipated major repairs or replacements to the Common Area, the portions of the Home Exteriors for which the Association is responsible and the purchase of other property to be used by the Association in connection with its duties hereunder. The Capital Reserve may be built up by separate or special assessments or out of the Common Assessment as provided in the budget. Special accounts set up for portions of the Capital Reserve to be used to make capital expenditures with respect to the Common Areas, Home Exteriors and other property owned by the Association, shall be held by the Association as agent and trustee for the Owners of Homes with respect to which the Capital Reserve is held and such accounts shall be deemed to have been funded by capital contributions to the Association by the Owners. The budgets which will be adopted from time to time by the Managers prior to the Turnover Date shall include reserve buildups which the Managers deem to be appropriate based on information available to the Managers. Managers elected by the Owners after the Turnover Date may use different approaches from those used by Declarant, as the Managers prior to the Turnover Date for the buildup of reserves or may choose not to provide for the buildup of reserves for certain capital expenditures or deferred maintenance for repairs or replacements of the Common Area, those portions of the Lots and Home Exteriors for which the Association is responsible for repair and replacement and other property owned by the Association. If the Managers chooses not to provide for the buildup of reserves for a particular anticipated expenditure or if the buildup of reserves that the Managers provide for in the budget does not result in sufficient funds to pay for the expenditure when the expenditure must be made, then (i) neither the Managers nor any of its past or present members shall be liable to the Association or the Owners for failing to provide for sufficient reserves and (ii) the Managers shall have the right and power to either levy a separate or special assessment to raise the funds to pay the expenditure or to borrow funds to pay the expenditure and repay the borrowed funds out of future Common Assessments, separate assessments or special assessments.

6.07 INITIAL CAPITAL CONTRIBUTION: Upon the closing of the sale of each Home by the Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Association in an amount equal to two (2) monthly installments of the then current Common Assessment for that Home and an amount equal to the current annual fire and extended coverage insurance premium allocable to the Home, which amounts shall be held and used by the

Association for its working capital needs (and not as an advance payment of the Common Assessment).

6.08 PAYMENT OF ASSESSMENTS: Assessments levied by the Association shall be collected from each Owner by the Association and shall be a lien on the Owner's Lot and also shall be a personal obligation of the Owner in favor of the Association, all as more fully set forth in Article Seven.

ARTICLE SEVEN
Collection of Charges and
Remedies for Breach or Violation

7.01 CREATION OF LIEN AND PERSONAL OBLIGATION: The Declarant hereby covenants, and each Owner of a Lot by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed or other conveyance) shall be and is deemed to covenant and hereby agrees to pay to the Association all Charges made with respect to the Owner or the Owner's Lot. Each Charge, together with interest thereon and reasonable costs of collection, if any, as hereinafter provided, shall be a continuing lien upon the Lot against which such Charge is made and also shall be the personal obligation of the Owner of the Lot at the time when the Charge becomes due. The lien or personal obligation created under this Section shall be in favor of and shall be enforceable by the Association.

7.02 COLLECTION OF CHARGES: The Association shall collect from each Owner all Charges payable by such Owner under this Declaration.

7.03 NON-PAYMENT OF CHARGES: Any Charge which is not paid to the Association when due shall be deemed delinquent. Any Charge which is delinquent for fifteen (15) days or more shall bear interest at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, from the due date to the date when paid. The Association may (i) bring an action against the Owner personally obligated to pay the Charge to recover the Charge (together with interest, costs and reasonable attorney's fees for any such action, which shall be added to the amount of the Charge and included in any judgment rendered in such action), and (ii) enforce and foreclose any lien which it has or which may exist for its benefit. In addition, the Managers may add a reasonable late fee to any installment of an assessment which is not paid within fifteen (15) days of its due date. No Owner may waive or otherwise escape personal liability for the Charges hereunder by nonuse of the Common Area or by abandonment or transfer of his Lot.

7.04 LIEN FOR CHARGES SUBORDINATED TO MORTGAGES: The lien for Charges, provided for in Section 7.01, shall be subordinate to the First Mortgagee's mortgage on the Lot which was Recorded prior to the date that any such Charge became due. Except as hereinafter provided, the lien for Charges, provided for in Section 7.01, shall not be affected by any sale or transfer of a Lot. Where title to a Lot is transferred pursuant to a decree of foreclosure of the First Mortgagee's mortgage or by deed or assignment in lieu of foreclosure of the First Mortgagee's mortgage, such transfer of title shall extinguish the lien for unpaid Charges

which became due prior to the date of the transfer of title. However, the transferee of the Lot shall be personally liable for his share of the Charges with respect to which a lien against his Lot has been extinguished pursuant to the preceding sentence where such Charges are reallocated among all the Owners pursuant to a subsequently adopted annual or revised Common Assessment or special assessment, and non-payment thereof shall result in a lien against the transferee's Lot, as provided in this Article.

7.05 SELF-HELP BY MANAGERS: In the event of a violation or breach by an Owner of the provisions, covenants or restrictions of the Declaration, the Operating Agreement, or rules or regulations of the Managers where such violation or breach may be cured or abated by affirmative action, then the Managers upon not less than ten (10) days' prior written notice to the Owner, shall have the right to enter upon that part of the Premises where the violation or breach exists to remove or rectify the violation or breach; provided, that, if the violation or breach exists within a Home, judicial proceedings must be instituted before any items of construction can be altered or demolished.

7.06 OTHER REMEDIES OF THE MANAGERS: In addition to or in conjunction with the remedies set forth above, to enforce any of the provisions contained in this Declaration or any rules and regulations adopted hereunder the Managers may levy a fine or the Managers may bring an action at law or in equity in the name of the Association against any person or persons violating or attempting to violate any such provision, either to restrain such violation, require performance thereof, to recover sums due or payable (including fines) or to recover damages, and against the Lot to enforce any lien created hereunder; and failure by the Association to enforce any provision shall in no event be deemed a waiver of the right to do so thereafter.

7.07 COSTS AND EXPENSES: All costs and expenses incurred by the Managers in connection with any action, proceedings or self-help in connection with exercise of its or their rights and remedies under this Article, including, without limitation, court costs, attorneys' fees and all other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, until paid, shall be charged to and assessed against the defaulting Owner, and the Association shall have a lien for all the same, upon his Lot as provided in Section 7.01.

7.08 ENFORCEMENT BY OWNERS: Enforcement of the provisions contained in this Declaration and the rules and regulations adopted hereunder may be by any proceeding at law or in equity by any aggrieved Owner against any person or persons violating or attempting to violate any such provisions, either to restrain such violation or to recover damages, and against a Lot to enforce any lien created hereunder.

7.09 ENFORCEMENT BY DECLARANT: The Declarant is hereby granted the right, but shall not be obligated, to enforce covenants and obligations of the Association or the Owners hereunder. If the Association or one or more Owners fail to comply with any covenants and obligations hereunder, the Declarant shall have the right (but shall not be obligated) to give notice to the Association or the offending Owner or Owners of its, his or their failure to perform its, his or their obligations. If such notice is given and the Association or the offending Owner or Owners do not perform as provided hereunder within thirty (30) days after the giving of such

notice, then the Declarant may (but shall not be obligated to) enter upon the Premises and perform any and all work which it deems necessary and appropriate, either directly or through contractors engaged by the Declarant. The Association or the offending Owner or Owners shall, upon demand, reimburse the Declarant for the reasonable cost of such work, plus interest, at the rate of two percent (2%) above the "prime rate" of interest as published from time to time in the Wall Street Journal, from the date incurred and paid by the Declarant through the date the Declarant is reimbursed for such cost, and if payment is not made within thirty (30) days after demand, then the amount due, plus reasonable costs of collection, including reasonable attorneys' fees, shall become a lien on the property of the offending Owner or Owners or, in the case of the Association, the property of the Association, effective as of the date on which such work was completed; provided, however, that such lien shall be subordinate to the lien of any first mortgage on a Lot Recorded prior to the date on which any such cost becomes a lien against the Lot as provided above. Any amount payable by the Association to the Declaration pursuant to this Section 7.09 may, at the Declarant's sole option, be subtracted from any amount payable by the Declarant to the Association under Section 6.02.

7.10 BACKUP SPECIAL SERVICE AREA: The Municipality may establish one or more Backup Special Service Areas to give the Municipality the power to levy taxes to pay the cost of maintaining the Common Area if the Association fails to do so and the Municipality chooses to furnish such services.

ARTICLE EIGHT Use Restrictions

8.01 INDUSTRY/SIGNS: No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Common Area nor shall any "For Sale" or "For Rent" signs or any other advertising be maintained or permitted on any part of the Common Area or any Home Exterior, except as permitted by the Managers or as permitted under Article Nine.

8.02 UNSIGHTLY USES: No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out on any portion of any Home Exterior or the Common Area. The Premises shall be kept free and clear of all rubbish, debris and other unsightly materials and no waste shall be committed thereon. The Managers shall have the right to adopt reasonable rules and regulations concerning window treatment or other decorating within a Home which is visible from outside the Home. All rubbish and refuse shall be deposited in such areas and in such receptacles as shall be designated from time to time by the Managers or the Municipality.

8.03 SATELLITE DISHES/ANTENNAE: Subject to applicable federal, state and local regulations, laws and ordinances, no television antenna, radio receiver or transmitter or other similar device shall be attached to or installed on any portion of any Home Exterior or the Common Area without the prior written approval of the Managers.

8.04 RESIDENTIAL USE ONLY:

(a) Except as provided in Article Nine or in subsections (b) and (c) of this Section, each Home shall be used only as a residence and no industrial business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Premises.

(b) No Resident shall be precluded with respect to his Home, from (i) maintaining a personal professional library, (ii) keeping his personal business records or accounts therein, or (iii) handling his personal business or professional calls or correspondence therefrom.

(c) To the extent permitted under applicable laws and ordinances, a Resident may conduct an in-home business in a Home.

8.05 PARKING: Unless expressly permitted by the Managers, no boats, trucks, recreational vehicles, trailers, commercial vehicles or other similar vehicles shall be parked or stored on any portion of the Premises (other than a garage which is part of a Home) for more than twenty-four (24) hours at a time. Except for emergencies, no repairs or maintenance work shall be performed on any vehicle on the Premises (other than within a garage). Parking spaces on the Common Area owned by the Association ("Guest Parking Spaces"), if any, shall be unallocated and available on first come-first serve basis. Guest Parking Spaces shall not be used for overnight Resident parking.

8.06 OBSTRUCTIONS: Except as permitted under Section 9.03 there shall be no obstruction of the Common Area, and nothing shall be stored in the Common Area without the prior written consent of the Managers.

8.07 PETS: No animal of any kind shall be raised, bred or kept in the Common Area. The Managers may from time to time adopt rules and regulations governing the (a) keeping of pets in the Home, which may include a limit on the number of pets which may be kept in a Home and/or may prohibit certain species of pets from being kept in the Home, and (b) use of the Common Area by pets, including, without limitation, rules and regulations which require an Owner to clean up after his pet. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Premises upon three (3) days written notice from the Managers to the Owner of the Home containing such pet and the decision of the Managers shall be final.

8.08 NO NUISANCE: No noxious or offensive activity shall be carried on in the Premises nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the Residents.

8.09 STRUCTURAL IMPAIRMENT: Nothing shall be done in, on or to any part of the Premises which would impair the structural integrity of any building or structure located on the Premises.

8.10 WATERING: The Managers may adopt rules and regulations governing the watering of grass, shrubs, trees and other foliage on the Common Areas. Without limiting the foregoing, the Managers may require the Owner of a particular Lot to be responsible for watering specific portions of the Common Area as designated from time to time by the Managers.

8.11 BALCONIES / GRILLS: The use and placement of grills and other seasonal items on balconies shall be subject to applicable ordinances of the Municipality and rules and regulations adopted by the Managers from time to time. The use of charcoal grills on the Premises is prohibited.

8.12 USE AFFECTING INSURANCE: Nothing shall be done or kept in any Home or in the Common Area which will increase the rate of insurance maintained by the Association pursuant to Article Four without prior written consent of the Managers. No Owner shall permit anything to be done or kept in his Home or on the Common Area which will result in the cancellation of insurance maintained by the Association pursuant to Article Four or which would be in violation of any law.

ARTICLE NINE

Declarant's Reserved Rights and Special Provisions Covering Development Period

9.01 IN GENERAL: In addition to any rights or powers reserved to the Declarant under the provisions of this Declaration or the Operating Agreement, the Declarant shall have the rights and powers set forth in this Article. Anything in this Declaration or the Operating Agreement to the contrary notwithstanding, the provisions set forth in this Article shall govern. Except as otherwise provided in this Article, the rights reserved to the Declarant in this Article shall terminate five (5) years from such time as the Declarant is no longer vested with or in control of title to any portion of the Development Area ("Declarant Rights Period").

9.02 PROMOTION OF PROJECT: The Declarant shall have the right and power, within its sole discretion, to (i) construct such temporary or permanent improvements, or to do such acts or other things in, on, or to the Premises as the Declarant may, from time to time, determine to be necessary or advisable, (ii) construct and maintain model homes, sales or leasing offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as the Declarant may deem advisable and to use such model homes (including model homes which are sold and leased back to the Declarant), sales or leasing offices or other facilities for the purpose of selling or leasing Homes on the Premises or at other properties in the general location of the Premises which are being offered for sale by the Declarant or any of its affiliates, without the payment of any fee or charge whatsoever to the Association. Declarant, its agents, prospective purchasers and tenants, shall have the right of ingress, egress and parking in and through, and the right to use and enjoy the Common Area, at any and all reasonable times without fee or charge. The Declarant shall have the right and power to lease any Home owned by it to any person or entity which it deems appropriate in its sole discretion and it need not comply with the provisions of Section 2.15.

9.03 CONSTRUCTION ON PREMISES: In connection with the construction of improvements to any part of the Premises, the Declarant, its agents and contractors, shall have the right, at the Declarant's own expense, (but shall not be obligated) to make such alterations, additions or improvements to any part of the Premises including, without limitation, the construction, reconstruction or alteration of any temporary or permanent improvements to any

structure which shall contain Homes or the Common Area which the Declarant deems, in its sole discretion, to be necessary or advisable, and the landscaping, sodding or planting and replanting of any unimproved portions of the Premises. In connection with the rights provided in the preceding sentence, the Declarant, its agents and contractors, shall have the right of ingress, egress and parking on the Premises and the right to store dirt, construction equipment and materials on the Premises without the payment of any fee or charge whatsoever.

9.04 GRANT OF EASEMENTS AND DEDICATIONS: Declarant shall have the right to dedicate portions of the Common Area to the County, Municipality or other governmental authority which has jurisdiction over such portions. Declarant shall also have the right to reserve or grant easements over the Common Area to any governmental authority, public utility or private utility for the installation and maintenance of electrical and telephone conduit and lines, gas, sewer, water lines and cable television, or any other utility services serving any Lot.

9.05 DECLARANT CONTROL OF ASSOCIATION: Prior to the Turnover Date, the Managers shall be the Declarant, or one or more entities or persons designated by the Declarant from time to time who need not be Owners or Voting Members. Initially the Declarant shall be the sole Manager. The rights and powers of the Declarant to manage the affairs of the Association, or designate the Managers of the Association shall terminate on the first to occur of (i) such time as Declarant no longer holds or controls title to any portion of the Development Area, (ii) the giving of written notice by Declarant to the Association of Declarant's election to terminate such rights, or (iii) ten (10) years from the date of Recording hereof. The date on which the Declarant's rights under this Section shall terminate shall be referred to as the "Turnover Date". From and after the Turnover Date, the Managers shall be constituted and elected as provided in the Operating Agreement. Prior to the Turnover Date, all of the voting rights at each meeting of the Owners shall be vested exclusively in the Declarant and the Owners shall have no voting rights.

9.06 OTHER RIGHTS: The Declarant shall have the right and power to execute all documents and do all other acts and things affecting the Premises which, in Declarant's opinion, are necessary or desirable in connection with the rights of Declarant under this Declaration.

9.07 ASSIGNMENT BY DECLARANT: All rights which are specified in this Declaration to be rights of the Declarant are mortgageable, pledgeable, assignable or transferable. Any successor to, or assignee of, the rights of the Declarant hereunder (whether as the result of voluntary assignment, foreclosure, assignment in lieu of foreclosure, or otherwise) shall hold or be entitled to exercise the rights of Declarant hereunder as fully as if named as such party herein. No such successor assignee of the rights of Declarant hereunder shall have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights.

9.08 MATTERS AFFECTING COMMON AREA: During the Declarant Rights Period, the Association shall not cause or permit a lien or encumbrance to be placed or imposed on any portion of any lot without the prior written consent of the Declarant. Any such lien or encumbrance placed or imposed on a portion of any lot without Declarant's consent shall be null and void. In order to reflect or conform to a change in the Declarant's plan for the development,

any time prior to the end of the Declarant Rights Period, the Declarant shall have the right and power to (i) Record a Special Amendment pursuant to Section 10.01(vi) to withdraw and remove any portion or portions of lots from the Common Area, and (ii) require the Association to convey such portion or portions of lots which are so withdrawn and removed from the Common Area to Declarant or its nominee, free and clear of any liens or encumbrances other than those created by or consented to by the Declarant pursuant to this Section.

9.09 ARCHITECTURAL CONTROLS: Prior to such time as the Declarant no longer holds or controls title to any portion of the Development Area, no additions, alterations or improvements (including, without limitation, changes in the exterior color of a Home or construction or installation of a shed, outbuilding, deck, patio, terrace, antennae, satellite dish or similar changes) shall be made to the exterior of any Home or any part of the Home which is visible from outside the Home by an Owner without the prior written consent of the Declarant. If an addition, alteration or improvement which requires Declarant approval hereunder is made to a Home without the prior written consent of the Declarant, then the Declarant may seek injunctive relief to cause the Owner to cease construction of and/or remove the addition, alteration or improvement. Declarant's decision to approve or disapprove an alteration, addition or improvement in one instance shall not in any way create or establish a precedent for how the Declarant must respond to a request for an alteration, addition or improvement subsequently made, it being understood that circumstances, situations and standards may change and the Declarant reserves the right and power to grant or deny requests as Declarant believes are appropriate in Declarant's sole and absolute discretion.

ARTICLE TEN Amendments

10.01 SPECIAL AMENDMENTS: Anything herein to the contrary notwithstanding, 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 Fannie Mae, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, 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, guarantee or otherwise deal with first mortgages covering Lots, (iii) to correct omissions, errors, ambiguities or inconsistencies in the Declaration or any Exhibit, (iv) to bring the Declaration into compliance with applicable laws, ordinances or governmental regulations, (v) to amend Exhibit A to include additional real estate, and (vi) to amend Exhibit B to withdraw and remove all, or any portion, of Lot 41 (as defined in Section 9.08), which upon the Recording hereof were designated as part of the Common Area, from the terms of the Declaration so that the portion or portions so withdrawn and removed shall no longer be Common Area hereunder. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Owner. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot 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 make, execute and Record Special Amendments. The right and power

of the Declarant to record a Special Amendment hereunder shall terminate five (5) years after such time as Declarant no longer holds or controls title to a portion of the Development Area.

10.02 AMENDMENT: Subject to Section 10.01 and Article Eleven, the provisions of this Declaration may be amended, abolished, modified, enlarged, or otherwise changed in whole or in part by the affirmative vote of Voting Members representing at least Seventy-Five percent of the total votes or by an instrument consented to, in writing, executed by Owners of at least Seventy-Five Percent (75%) of the Lots; except, that (i) the provisions of this Section 10.02 may be amended only by an instrument executed by all of the Owners and all First Mortgagees, (ii) until such time as the rights and powers of the Declarant under Article Nine terminate, the provisions of Article Nine, Article Fourteen or any provisions of this Declaration relating to the rights and powers of the Declarant may only be amended with the written consent of the Declarant, and (iii) the provisions relating to the rights of a Designated Builder may be amended only upon the written consent of the Designated Builder. No amendment which removes Premises from the provisions of this Declaration shall be effective if as a result of such removal, an Owner of a Lot shall no longer have the legal access to a public way from his Lot. No amendment shall become effective until properly Recorded.

ARTICLE ELEVEN
First Mortgagees Rights

11.01 NOTICE TO FIRST MORTGAGEES: Upon the specific, written request of First Mortgagee or the insurer or guarantor of a First Mortgagee's mortgage, such party shall receive some or all of the following:

- (a) Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Owner of the Lot covered by the First Mortgagee's mortgage;
- (b) Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners; provided, that, if an audited statement is not available, then upon the written request of the holder, insurer or guarantor of a Mortgage, the Association shall permit such party to have an audited statement for the preceding fiscal year of the Association prepared at such party's expense;
- (c) Copies of notices of meetings of the Owners;
- (d) Notice of any proposed action that requires the consent of a specified percentage of Eligible First Mortgagees;
- (e) Notice of any substantial damage to any part of the Common Area or the Lot subject to the First Mortgagee's mortgage;
- (f) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Common Area or the Lot subject to the First Mortgagee's mortgage;
- (g) Notice of any default by the Owner of the Lot which is subject to the First Mortgagee's mortgage under this Declaration, the Operating Agreement or the rules and regulations of the Association which is not cured within 30 days of the date of the default;
- (h) The right to examine the books and records of the Association at any reasonable times;
- (i) In the case of a First Mortgagee, the right to be listed on the records of the Association as an "Eligible First Mortgagee" for purpose of Section 11.02 below; and
- (j) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

The request of any such party shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association.

11.02 CONSENT OF FIRST MORTGAGEES:

(a) In addition to any requirements or prerequisites provided for elsewhere in this Declaration, the consent of First Mortgagees holding, in the aggregate, the first mortgages on at least two-thirds (2/3) of the Lots (by number) which are subject to first mortgages held by First Mortgagees which specifically request to be treated as "Eligible First Mortgagees" under Section 11.01(i) above will be required for the Association to do or permit to be done any of the following:

(1) Adoption of an amendment to this Declaration which (i) changes Article Six or otherwise changes the method of determining the Common Assessments or other Charges which may be levied against an Owner; (ii) changes Section 7.04 or Article Ten, (iii) changes this Article Eleven, Article Twelve or any other provision of this Declaration or by Operating Agreement which specifically grants rights to First Mortgagees, (iv) materially changes insurance and fidelity bond requirements, (v) changes voting rights, or (vi) imposes a right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his Lot;

(2) The withdrawal of the Premises from the provisions of this Declaration; provided, that, such consent of Eligible First Mortgagees will not be required with respect to any action under (1) above which occurs as a result of any action taken pursuant to Article Twelve.

(b) Whenever required, the consent of an Eligible First Mortgagee shall be deemed granted unless the party seeking the consent is advised to the contrary, in writing, by the Eligible First Mortgagee within sixty (60) days after making the request for consent.

11.03 INSURANCE PROCEEDS/CONDEMNATION AWARDS: In the event of (i) any distribution of any insurance proceeds hereunder as a result of damage to, or destruction of, any part of the Premises or (ii) any distribution of the proceeds of any award or settlement as a result of condemnation or eminent domain proceedings with respect to any part of the Common Area, any such distribution shall be made to the Owners and their respective First Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to priority over the First Mortgagee of a Lot with respect to any such distribution to or with respect to such Lot; provided, that, nothing in this Section shall be construed to deny to the Association the right (i) to apply insurance proceeds to repair or replace damaged improvements or (ii) to apply proceeds of any award or settlement as a result of eminent domain proceedings as provided in Article Four.

ARTICLE TWELVE Annexing Additional Property

12.01 IN GENERAL: Declarant reserves the right at any time and from time to time prior to ten (10) years from the date of Recording of this Declaration to annex, add and subject additional portions of the Development Area to the provisions of this Declaration as additional Premises by recording a supplement to this Declaration (a "Supplemental Declaration"), as

hereinafter provided. Any portion of the Development Area which is subjected to this Declaration by a Supplemental Declaration shall be referred to as "Added Premises"; any portion of any Added Premises which is made part of the Common Area shall be referred to as "Added Common Area"; and any Lots contained in the Added Premises shall be referred to as "Added Lots". After the expiration of said ten (10) year period, Declarant may exercise the rights described herein to annex, add and subject additional portions of the Development Area to the provisions of this Declaration, provided that the consent the Owners (by number) of two-thirds (2/3) of all Lots then subject to this Declaration is first obtained.

12.02 POWER TO AMEND: Declarant hereby retains the right and power to Record a Supplemental Declaration, at any time and from time to time as provided in Section 12.01, which amends or supplements Exhibit B. Exhibit B may only be amended or supplemented pursuant to this Article to add portions of the Development Area to Exhibit B and shall not be amended to reduce or remove any real estate which is described in Exhibit B immediately prior to the Recording of such Supplemental Declaration. A Supplemental Declaration may contain such additional provisions affecting the use of the Added Premises or the rights and obligations of owners of any part or parts of the Added Premises as the Declarant deems necessary or appropriate.

12.03 EFFECT OF SUPPLEMENTAL DECLARATION: Upon the Recording of a Supplemental Declaration by Declarant which annexes and subjects Added Premises, Added Common Area, or Added Lots to this Declaration, as provided in this Article, then:

(a) The easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges set forth and described herein shall run with and bind the Added Premises and inure to the benefit of and be binding on any Person having at any time any interest or estate in the Added Premises in the same manner, to the same extent and with the same force and effect that this Declaration applies to the Premises, and Persons having an interest or estate in the Premises, subjected to this Declaration prior to the date of the Recording of the Supplemental Declaration;

(b) Every Owner of an Added Lot shall be a member of the Association on the same terms and subject to the same qualifications and limitations as those members who are Owners of Lots immediately prior to the Recording of such Supplemental Declaration;

(c) In all other respects, all of the provisions of this Declaration shall include and apply to the Added Premises (including the Added Common Area or the Added Lots, if any) made subject to this Declaration by any such Supplemental Declaration and the Owners, First Mortgagees, and lessees thereof, with equal meaning and of like force and effect and the same as if such Added Premises were subjected to this Declaration at the time of the Recording hereof;

(d) The Recording of each Supplemental Declaration shall not alter the amount of the lien for any Charges made to a Lot or its Owner prior to such Recording;

(e) The Declarant shall have and enjoy with respect to the Added Premises all rights, powers and easements reserved by the Declarant in this Declaration, plus any additional rights, powers and easements set forth in the Supplemental Declaration; and

(f) Each Owner of an Added Lot which is subject to assessment hereunder shall be responsible for the payment of the Common Assessment pursuant to Section 6.02(e) or Section 6.08, but shall not be responsible for the payment of any special assessment which was levied prior to the time that the Added Lot became subject to assessment hereunder.

ARTICLE THIRTEEN

Party Walls

13.01 PARTY WALL: Every wall, including the foundations therefor, which is built as a part of the original construction of a building and placed on the boundary line between separate Homes shall constitute and be a "Party Wall", and the Owner of a Lot immediately adjacent to a Party Wall shall have the obligation and be entitled to the rights and privileges of these covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls.

13.02 RIGHTS IN PARTY WALL: Each Owner of a Lot, which is adjacent to a Party Wall, shall have the right to use the Party Wall for support of the structure originally constructed thereon and all replacements thereof and shall have the right to keep, maintain, repair and replace therein all pipes, conduit, and ducts originally located therein and all replacements thereof.

13.03 DAMAGE TO PARTY WALL:

(a) If any Party Wall is damaged or destroyed through the act or acts of any Owner of a Lot which is adjacent to such Party Wall, or his agents, servants, tenants, guests, invitees, licensees, or members of his family, whether such act is willful, negligent or accidental, such Owner shall, with prior notice to the Association and the Owner of the other adjoining Lot, forthwith proceed to rebuild or repair the same to as good a condition as in which such Party Wall existed prior to such damage or destruction without costs therefor to the Owner of the other adjoining Lot.

(b) Any Party Wall damaged or destroyed by some act or event other than one caused by the Owner of a Lot which is adjacent to such Party Wall, or his agents, servants, tenants, guests, invitees, licensees, or members of his family, shall be rebuilt or repaired by the Owners of the adjacent Lots to as good a condition as in which such Party Wall existed prior to such damage or destruction at joint and equal expense of such Owners, and as promptly as is reasonably possible; provided that the cost of repairing or replacing any portion thereof which is part of a Home Exterior with respect to which the Association is responsible for furnishing maintenance, repairs or replacements hereunder shall be paid by the Association as a Common Expense to the extent not covered by insurance.

(c) In the event that any Owner shall fail, within a reasonable time after the occurrence of damage or destruction referred to in this Section, to perform the necessary repair or rebuilding, then, the Managers may cause such repairs or rebuilding to be performed in the manner as provided in this Section and the cost thereof shall be charged to such Owner as his personal obligation and shall be a continuing lien on the Owner's Lot.

13.04 CHANGE IN PARTY WALL: Any Owner of a Lot who proposes to modify, rebuild, repair or make additions to any structure upon his Lot in any manner which requires the extension, alteration or modification of any Party Wall shall first obtain the written consent thereto, as to said Party Wall, of the Owner of the other adjacent Lot and the Managers, in addition to meeting any other requirements which may apply including, without limitation, those of the Municipality. In the event that a Party Wall is altered, regardless of whether all required consents have been obtained, any express or implied warranties made by the Declarant or the Original Declarant concerning the structural integrity of the Party Wall or either of the Homes adjacent to the Party Wall shall be null and void and the Owner who alters the Party Wall shall be responsible for any and all damage caused to either of the adjacent Homes or improvements thereto.

13.05 ARBITRATION: In the event of a disagreement between Owners of Lots adjoining a Party Wall with respect to their respective rights or obligations as to such Party Wall, upon the written request of either of said Owners to the other the matter shall be submitted to the Managers and the decision of the Managers shall be final and binding.

ARTICLE FOURTEEN Miscellaneous

14.01 NOTICES: Any notice required to be sent to any Owner under the provisions of this Declaration or the Operating Agreement shall be deemed to have been properly sent if (i) mailed, postage prepaid, to his or its last known address as it appears on the records of the Association at the time of such mailing, (ii) transmitted by facsimile or e-mail to his or its facsimile number or e-mail address as either appears on the records of the Association at the time of such transmittal, or (iii) when personally delivered to his or its Home. The date of mailing, or the date of transmission if the notice is sent by facsimile or e-mail, shall be deemed the date of service.

14.02 CAPTIONS: The Article and Section headings are intended for convenience only and shall not be construed with any substantive effect in this Declaration. In the event of any conflict between statements made in recitals to this Declaration and the provisions contained in the body of this Declaration, the provisions in the body of this Declaration shall govern.

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

14.04 PERPETUITIES AND OTHER INVALIDITY: If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the President of the United States at the time this Declaration is Recorded.

14.05 TITLE HOLDING LAND TRUST: In the event title to any Lot is held by a title holding trust, under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all Charges and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Lot and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Lot.

14.06 DESIGNATED BUILDERS:

(a) The Declarant shall have the right and power to designate, in a Supplemental Declaration, a "Designated Builder" and to grant to the Designated Builder some or all of the rights of the Declarant hereunder, including, without limitation, one or more of the following rights:

(i) The right to construct homes and to temporarily store construction equipment and materials on the Development Area;

(ii) The right to construct and maintain model units, sales or leasing offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as the Designated Builder may deem advisable and to use such model units (including model units which are sold by and leased back to the Designated Builder), sales or leasing offices or other facilities for the purpose of selling or leasing Homes on the Premises or at other properties in the general location of the Premises which are being offered for sale by the Designated Builder or any its affiliates, without the payment of any fee or charge whatsoever to the Association.

(iii) The right of ingress, egress and parking in and through, and the right to use and enjoy the Community Area, at any and all reasonable times without fee or charge.

(iv) The right and power to lease any Homes owned by it to any person or entity which it deems appropriate in its sole discretion.

(v) The right not to pay assessments under Section 6.02 hereof with respect to

Lots owned by the Designated Builder during the period prior to the Turnover Date, subject to the obligation to share in the payments, if any, required to be made by the Declarant;

(vi) The right not to pay the initial capital contribution provided in Section 6.07 upon the closing of the sale of a Lot by Declarant to the Designated Builder; provided, however, that, in such case, the amounts payable under Section 6.07 shall be paid upon the closing of the Lot by the Designated Builder to a third party purchaser; and

(vii) The right to be treated as the Declarant under Section 14.07 hereof with respect to the waiver of implied warranty of habitability provided for therein.

(b) Any rights granted by the Declarant to a Designated Builder pursuant to this Section may be subject to such restrictions and limitations as the Declarant deems appropriate. Unless otherwise limited by the Declarant, any rights granted by the Declarant to a Designated Builder pursuant to this Section shall continue until such time as the Designated Builder is no longer vested with, or controls title to, any portion of the Development Area, regardless of whether the rights of the Declarant hereunder have terminated or expired.

14.07 WAIVER OF IMPLIED WARRANTY OF HABITABILITY AND OTHER WARRANTIES: Illinois courts have held that every contract for the construction of a new home in Illinois carries with it a warranty that when completed, the home will be free of defects and will be fit for its intended use as a home. The courts have also held that this "Implied Warranty of Habitability" does not have to be in writing to be a part of the contract and that it covers not only structural and mechanical defects such as may be found in the foundation, roof, masonry, heating, electrical and plumbing, but it also covers any defect in workmanship which may not easily be seen by the buyer. However, the courts have also held that a seller-builder and buyer may agree in writing that the Implied Warranty of Habitability is not included as a part of their particular contract. Each buyer of a Home from Declarant agreed in the purchase contract that the Declarant has excluded and disclaimed the Implied Warranty of Habitability and all other implied warranties, whether created judicially, statutorily or by common law, including the implied warranty of fitness for a particular purpose. Such exclusion and disclaimer shall apply to and bind any subsequent Owner of a Home and, accordingly, no Owner of a Home shall have the right to assert a claim against Declarant for a breach of the Implied Warranty of Habitability or any other implied warranty.

[Signature page follows]

Dated: _____, 2017

DECLARANT:

M/I HOMES OF CHICAGO, LLC, a Delaware
limited liability company

By: _____
Its _____

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, _____, a Notary Public in and for said County and State, do hereby
certify that _____, as _____ of M/I Homes of Chicago,
LLC, a Delaware limited liability company ("Company"), appeared before me this day in person
and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary
act, and as the free and voluntary act of the Company for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this ____ day of _____, 2017.

Notary Public

EXHIBIT A TO
DECLARATION FOR INDIAN PRAIRIE 204 TOWNHOMES

The Development Area

EXHIBIT B TO
DECLARATION FOR INDIAN PRAIRIE 204 TOWNHOMES

The Premises

I. Lots:

II. Common Area:

A.

B.

Addresses:

PINS: