

THIS INSTRUMENT PREPARED
BY AND SHOULD BE RETURNED
TO:

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ABOVE SPACE FOR RECORDER'S USE ONLY

DECLARATION FOR LIBERTY MEADOWS TOWNHOMES

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DECLARATION FOR LIBERTY MEADOWS TOWNHOMES

This Declaration is made by _____ ("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 Liberty Meadows 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 or remove portions of the Development Area from the Premises, as more fully described in Article Twelve. As Supplemental Declarations are Recorded, the Premises will expand to include more and more portions of the Development Area. Nothing in this Declaration shall be construed to require the Declarant to subject additional portions of the Development Area to the provisions of this Declaration. Those portions of the Development Area which are not made subject to the provisions of this Declaration as Premises may be used for any purposes not prohibited by law.

Portions of the Premises shall be designated as a 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 Parcels and Home Exteriors and shall set budgets and fix assessments to pay the expenses incurred in connection with such duties. Each Owner of a Parcel shall be a member of the Association and shall be responsible for paying assessments with respect to the Parcel owned by such Owner.

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, 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 Liberty Meadows Townhome Owners Association, LLC, an Illinois limited liability company, its successors and assigns.

1.02 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.

1.03 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.

1.04 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.

1.05 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 the services and maintenance 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 Parcel); 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 buildings; any expenses designated as Common Expenses hereunder; and any other expenses lawfully incurred by or on behalf of the Association for the common benefit of all of the Owners. Notwithstanding the foregoing, Common Expenses shall not include any payments made out of Capital Reserves.

1.06 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.

1.07 DECLARANT: _____, its successors and assigns.

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

1.09 DECLARANT'S DEVELOPMENT PLAN: Declarant's current plan for the Development which shall be maintained by the Declarant at its principal place of business and may be changed at any time, or from time to time, without notice.

1.10 DESIGNATED BUILDER: Any legal entity which is designated, from time to time, by the Declarant as a "Designated Builder" in a Special Amendment or Supplemental Declaration, as more fully provided herein.

1.11 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. Any portions of the Development Area which are not made subject to the provisions of this Declaration as part of the Premises may be developed and used for any purposes not prohibited by law, including, without limitation, as a residential development which is administered separate from the Development.

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

1.13 HOME: That portion of a Parcel which is improved with a dwelling unit.

1.14 HOME EXTERIOR: The roof, gutters, downspouts, foundation or slab, footings, 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.

1.15 INVESTOR OWNER: An Owner who intends to lease his or her Home or Homes for investment purposes and delivers written notice thereof to the Association.

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

1.17 MANAGER(S): The manager or managers from time to time as appointed or elected as provided in this Declaration or the Operating Agreement; provided, that if the Association is merged into an Illinois not for profit corporation, as more fully provided in Section 5.11 below, the Managers shall be the board of directors of the Association.

1.18 MUNICIPALITY: The City of Aurora, an Illinois municipal corporation, 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 which is attached hereto as Exhibit C; provided, that, if the Association is merged into an Illinois not for profit corporation, as more fully provided in Section 5.11 below, the term Operating Agreement as used herein shall mean the by-laws of the Association.

1.20 OWNER: A Record owner, whether one or more persons, of fee simple title to a Parcel, 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 Parcel owned by the Declarant and, if a Lot is not yet divided into Parcels, the number of Parcels proposed for such Lot on the Declarant's Development Plan.

1.21 PARCEL: It is intended that each Lot shall be improved with a building containing at least four (4) dwelling units. Each dwelling unit on a Lot shall share a perimeter wall with at least one (1) other dwelling unit. The shared walls are defined as "Party Walls" in Section 13.01 hereof. Each Lot shall be divided into at least four (4) tracts which shall be defined by the Party Walls, as extended to the lot line. Each such tract shall consist of a dwelling unit (including approximately one-half (1/2) of the Party Wall which divides the dwelling unit from adjacent dwelling units) landscapable areas, and portions of driveways and walkways. Each tract shall be legally described in the deed which conveys the tract to the first purchaser thereof from the Declarant and the tract so described, together with all improvements thereon, shall be a "Parcel" hereunder. Until such time as a Lot is improved with a building containing dwelling units, the Lot shall be deemed to include the same number of Parcels as are shown on the Declarant's Development Plan.

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

1.23 PLAT: Any plat of subdivision Recorded with respect to the Premises.

1.24 PREMISES: Those portions of the Development Area which are legally described in Exhibit B hereto, as amended from time to time, 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 or remove certain portions of the Development Area from the Premises, as more fully provided in Article Twelve.

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

1.26 RESIDENT: An individual who resides in a Home.

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

1.28 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 and power from time to time to subject additional portions of the Development Area to the provisions of this Declaration as Added Premises or to remove portions of the Development Area from the terms hereof, 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 PARCEL CONVEYANCE: Once a Parcel has been conveyed by the Declarant to a bona fide purchaser for value, then any subsequent conveyance or transfer of ownership of the Parcel shall be of the entire Parcel and there shall be no conveyance or transfer of a portion of the Parcel without the prior written consent of the Managers.

2.05 ACCESS EASEMENT: Each Owner and Resident of a Parcel shall have a non-exclusive perpetual easement for ingress to and egress from his Parcel to public streets and roads over and across the drive aisles, driveways and walkways located on the Common Area, which easement shall run with the land, be appurtenant to and pass with title to every Parcel. The Municipality and 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, 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 any patio or deck constructed on the Owner's Parcel 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 Parcel, 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 Parcel 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 Parcel 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. 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 Parcel, 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 Parcel, 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 and/or dedications made on the Plat or pursuant to 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 construction, repair, reconstruction, settlement or shifting of an improvement to a Parcel, any

improvement which is intended to service and/or be part of the Parcel shall encroach upon any part of any other Parcel or upon the Common Area or any improvement to the Common Area shall encroach upon any part of a Parcel, 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 Parcel shall have an easement appurtenant to his Parcel for the continuance, maintenance, repair and replacement of the following improvements, if any, which encroach onto another Parcel or the Common Area:

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

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 Parcel shall be owned by the Owner of the Parcel. Those portions of the Common Area which are not part of a Parcel, shall be conveyed to the Association free of mortgages no later than ninety (90) days after such portion is made subject hereto or the Turnover Date, whichever occurs later.

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; and
- (b) 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.

(c) 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.

The provisions of this Section 2.15 shall not apply to members of an Owner's family. Any amendment to this Section 2.15, or any other amendment to this Declaration which would otherwise affect the right and/or ability of an Investor Owner to lease the Investor Owner's Home or Homes shall become effective only with the written consent of 100% of the Investor Owners.

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 Parcel) 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. Each Owner of a Parcel shall be responsible for the payment of real estate taxes levied with respect to the Owner's Parcel (including any portion of the Owner's Parcel which is designated as Common Area hereunder).

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 drive aisles, 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, 3.07 and 3.09, 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 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; and

(v) Maintenance, repair and replacement of any cluster mailboxes and pads located on the Premises in accordance with the design, material and color as originally constructed by the Declarant.

(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") as required hereunder, 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, repair and replacement of the Privacy Area, if any, appurtenant to a Home shall be governed by the provisions of Section 3.09.

(c) The maintenance (other than periodic exterior painting), repair and replacement 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.

(d) 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 Parcel, shall be the responsibility of the Owner of the Home served by any such utility lines or system.

(e) 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 from time to time, 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.

(f) 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:

(a) 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 Parcel 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:

(i) 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

(ii) 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.

(b) Certain utility costs, such as water and sewer costs, may be billed to the Association on a building by building basis. If this occurs, then the Association may charge to, and collect from, the Owners of Homes in a building amounts necessary to pay the bills issued with respect to the building, on such terms as the Managers deems to be fair, reasonable and appropriate. For example, the Association may (but shall not be obligated to) submeter each Home and charge the Owner of the Home on a periodic basis for the portion of the bill for the building which includes

the Home based on actual usage. Alternatively (or in addition) the Association may (i) require an Owner to pay an amount each month which the Managers believes will approximate what the utility costs allocable to the Owner's Home will be and (ii) make appropriate adjustments periodically to reflect the actual costs allocable to the Home.

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

3.05 DAMAGE BY OWNER OR 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 Parcel, damage shall be caused to any property insured by the Association pursuant to Article Fourt, and maintenance, repairs or replacements shall be required thereby, which would otherwise be a Common Expense, then the Owner of the Parcel 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, including, without limitation, the deductible amount under any applicable insurance policy.

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 written approval of the Managers.

(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: With respect to any Parcel which has been improved with a Home and conveyed to a bona fide purchaser for value, no additions, alterations or improvements shall be made to a Parcel (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 consent to the making of an addition, alteration or improvement to a Parcel 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. The Managers may adopt, and from time to

time modify, policies concerning alterations, additions and improvements to Parcels and Homes. The Manager'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 Managers 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 Managers reserves the right and power to grant or deny requests as Managers believe are appropriate in Manager's sole discretion. If an addition, alteration or improvement which requires consent of the Managers and/or Declarant hereunder is made to a Parcel 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:

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

(ii) 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

(iii) 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 Parcel or Parcels 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 Parcels or offer such service to each of the Owners on a voluntary basis. The Managers may charge the Owner of each Parcel which receives any such service for the reasonable cost of providing such service, which may be allocated in equal shares for each of the Parcels 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 7.01.

3.09 PRIVACY AREAS: Certain portions of the Common Area may be designated as being reserved for the exclusive use of the Residents of a particular Home as a garden, patio, deck or other similar use ("Privacy Area"), as provided in this Section. The Declarant may designate portions of the Common Area as Privacy Areas by so designating such portions in Exhibit B. Alternatively, the Managers may designate Privacy Areas pursuant to rules and regulations adopted from time to time by the Managers. The Managers shall maintain a record of all Privacy Areas and to which Home each Privacy Area is assigned. The right to use a Privacy Area which is assigned to a Home shall run with title to the Parcel which includes the Home. Subject to rules and regulations established from time to time by the Association, an

Owner may landscape his Privacy Area, or otherwise improve his Privacy Area in a manner which compliments and enhances the aesthetic appearance of the Development. The Owner shall be solely responsible, at his own expense, for the maintenance, repair, upkeep, planting and replanting of his Privacy Area and any improvements thereto. If the Owner fails, in the sole judgment of the Managers, to properly maintain his Privacy Area, then the Managers, in its discretion and at the Owner's expense, may (i) cause the Privacy Area to be properly maintained and the cost thereof shall be a Charge to the Owner, or (ii) cause the Privacy Area to be restored to its original state in conformity with the surrounding landscape (and the cost thereof shall be a Charge to the Owner), in which case such portion of the Common Area shall no longer be deemed to be a Privacy Area and the Owner shall no longer have any rights under this Section with respect to such portion of the Common Area.

ARTICLE FOUR Insurance/Condemnation

4.01 HAZARD INSURANCE: Except as otherwise provided in Section 4.04 hereof, the Managers shall have the authority to and shall obtain what is currently commonly referred to as “bare wall” 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, and all improvements thereto. 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 or the Association, 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 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 Association and the First Mortgagee of each Parcel, 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/or 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 with full prior acts coverage and a retroactive date as far back as available.

(f) Such other insurance in such reasonable amounts as is required under applicable regulations of the Federal National Mortgage Association 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 or her own insurance on the contents of the Owner's

Home and the fixtures, furnishings and personal property therein, through what is currently commonly referred to as an "HO-6 policy", which shall include all items inside the primer on the drywall of the Owner's Home, including, without limitation, floor coverings, wall coverings, ceiling coverings, built in cabinets, fixtures, appliances, air conditioning equipment, furnace/hot water heaters and sump and ejector pumps, regardless of from whom or when such items were acquired. Such HO-6 policy shall also include 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. The Managers shall have no obligation whatsoever to obtain any such HO-6 insurance coverage on behalf of an Owner.

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") covered by insurance carried by the Association, where the insurance proceeds are sufficient to repair or reconstruct the Damaged Improvement, 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 covered by insurance carried by the Association, 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 Parcel if the amendment had not been Recorded; provided, that, the Parcel 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 Parcel removed from the terms hereof as provided above, the Parcel 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.

4.07 CONDEMNATION: In the case of a taking or condemnation by competent authority of any part of the Common Area (which is not part of a Parcel), the proceeds awarded in such condemnation shall be paid to the Association and such proceeds, together with any Capital Reserve being held for such part of the Common Area, shall, in the discretion of the Board, either (i) be applied to pay the Common Expenses, (ii) be distributed to the Owners and their respective First Mortgagees, as their interests may appear, in equal shares, or (iii) be used to acquire additional real estate to be used and maintained for the mutual benefit of all Owners, as Common Area under this Declaration. Any acquisition by the Association pursuant to this Section of real estate which shall become Common Area hereunder shall not become effective unless and until a supplement to this Declaration, which refers to this Section and legally

describes the real estate affected, is executed by a majority of the Managers of the Association and Recorded.

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 Parcel. There shall be two classes of membership. The Declarant shall be the "Class B Member" with respect to Lots or Parcels which it owns from time to time. Each Owner other than the Declarant shall be a "Class A Member" with respect to each Parcel which it owns. Membership shall be appurtenant to and may not be separated from ownership of a Parcel. Ownership of a Parcel shall be the sole qualification for membership. Each purchasing Owner shall give to the Association written notice of the change of ownership of a Parcel 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 Parcel. The Voting Member or his proxy shall be the individual who shall be entitled to vote at meetings of the Owners. If the Parcel is owned by one individual, that individual shall be the Voting Member. If the Record ownership of a Parcel 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 Parcel 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 there election may recognize an individual Owner of the Parcel as the Voting Member for such Parcel.

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.

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 Class B Member, the Declarant, and the Owners (other than Declarant) 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 who represents a Parcel owned by a Class A Member shall have one vote for each Parcel which the Voting Member represents and the Declarant, as the Class B Member, shall have ten (10) votes for each Parcel which it owns or each Home which is planned to be built on each Lot (as shown on the Declarant's Development Plan) which it owns but which does not yet consist of Parcels. 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 of the votes represented at such meeting by Voting Members and the Declarant, except as otherwise provided herein or in the Operating Agreement.

5.06 MANAGER 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 Manager may be involved by virtue of such person being or having been such Managers; 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 CONVERSION/MERGER: Prior to the Turnover Date, the Declarant, or after the Turnover Date, the Managers shall have the right, power and authority to convert the Association from an Illinois Limited Liability Company to an Illinois Not for Profit Corporation (“NFP Conversion”), as permitted under applicable laws of the State of Illinois, as amended from time to time (“IL Law”). In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant and/or the Managers, as applicable, to make, consent to, and execute such documents as may be required under IL Law on behalf of each Owner and the Association. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Parcel and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Declarant and/or the Managers to make, consent to, and execute the NFP Conversion and take such other actions as the Declarant and/or the Managers deem necessary or appropriate to carry out the intent of the NFP Conversion, including, without limitation, adopting By-Laws for the Association to replace the Operating Agreement.

5.11 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 Parcels 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 actions to enforce the terms of any contract or agreement to which the Association is a party, 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 and sources other than assessments, 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 Parcel 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 Parcels, divided by twelve (12), so that each Owner shall pay equal Common Assessments for each Parcel 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 Development Plan and (ii) all proposed Homes have been sold, are occupied and are subject to assessment. Prior to the Turnover Date, each Owner of a Parcel (other than Declarant) which is subject to assessment 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 Parcel which is subject to assessment and owned by the Owner, a monthly Common Assessment equal to what such Owner would be paying with respect to the Owner's Parcel if the Development were fully constructed pursuant to the Declarant's Development Plan and all proposed Homes have been built, are occupied and are subject to assessment. 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 billed to Owners (regardless of whether paid by Owners) and working capital contributions under Section 6.07 payable 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 Parcel 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 Parcel under Section 6.02. For

purposes hereof, a Parcel shall only be subject to assessment hereunder from and after such time as a certificate of occupancy has been issued by the Municipality 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 Parcels which are subject to assessment in equal shares for each such Parcel. 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 appointed by the Declarant prior to the Turnover Date shall include reserve buildups which the Managers deems 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 Managers appointed by the Declarant, as the Manager 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 Areas, Home Exteriors and other property owned by the Association. If the Managers choose 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, and upon the closing of each subsequent sale of a Home, the purchasing Owner shall make a capital contribution to the Association in an amount equal to one-fourth (1/4) of the current year's Common Assessment for that 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 Parcel 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 Parcel 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 Parcel. Each Charge, together with interest thereon and reasonable costs of collection, if any, as hereinafter provided, shall be a continuing lien upon the Parcel against which such Charge is made and also shall be the personal obligation of the Owner of the Parcel 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 thirty (30) 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 thirty (30) 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 Parcel.

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 Parcel 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 Parcel. Where title to a Parcel 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 Parcel shall be personally liable for his share of the Charges with respect to which a lien against his Parcel 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 Parcel, 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 Parcel 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 Parcel 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 Parcel to enforce any lien created hereunder.

7.09 BACKUP SSA: The Municipality may establish a “Special Service Area” to serve as what is commonly referred to as a “Backup Special Service Area” to give the Municipality the power to levy taxes to pay the cost of maintaining the areas required to be maintained by the Association hereunder if the Association fails to do so and the Municipality chooses to furnish such services.

ARTICLE EIGHT Use Restrictions

8.01 INDUSTRY/SIGNS: Except as provided in Article Nine, no “For Sale”, “For Rent” or any other sign of any kind or other form of solicitation or advertising or window display shall be maintained or permitted on the Premises unless permitted pursuant to reasonable rules adopted by the Managers from time to time.

8.02 UNSIGHTLY USES: No clothes, sheets, blankets, laundry of any kind, or other similar 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. All rubbish shall be deposited in such areas and such receptacles as shall be designated by the Managers or the Municipality. Unless otherwise provided in rules and regulations adopted by the Managers or prescribed by the Municipality, all garbage shall be placed curbside no earlier than the morning of the day of collection and the empty receptacles shall be removed from curbside and returned to the Homes no later than 7:00 p.m. on the day of collection.

8.03 SATELLITE DISHES/ANTENNAE: Subject to applicable federal, state or local laws, ordinances or regulations, no mast, satellite dish, antennae or other structure for transmitting or receiving messages or programs by radio or television 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:

(a) The garage which is part of each Home shall be maintained in such a manner as to permit the parking of the number of vehicles which the garage was designed to accommodate.

(b) That portion of the driveway which is adjacent to and extends fifteen (15) feet beyond the garage door shall be used for parking only by the Resident of the Home and the Resident's guests; provided, however, that the driveway shall only be used for parking after the Resident has first utilized the garage which is part of the Home.

(c) The parking of vehicles in portions of the Common Area other than those areas adjacent to garages, as provided in (a) above, shall be subject to rules and regulations adopted by the Managers from time to time, which rules and regulations may provide for the removal of any violating vehicles at the vehicle owner's expense or for the imposition of a fine for a violation of the rules and regulations.

(d) Without limiting the foregoing, unless expressly permitted by the Managers, no boats, trailers, trucks (which have "D" or equivalent plates, more than two (2) axles, more than four (4) tires and/or a gross weight when fully loaded in excess of 8,000 pounds), recreational vehicles, trailers or other vehicles shall be parked or stored on any portion of the Property (other than in a garage which is part of a Home) for more than twenty-four (24) hours at a time and, except for emergencies, no repairs shall be made to vehicles on the Premises.

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 animals shall be kept or raised in the Common Area. No more than two (2) pets may be kept in any Home. No pet may be kept or raised for commercial purposes. The Managers may from time to time adopt rules and regulations governing the keeping of pets in the Homes. Such rules and regulations may prohibit certain species of pets or pets of more than a specified weight from being kept in the Homes. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from a Home 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. For purposes hereof, a "pet" is a domesticated animal kept for pleasure rather than utility.

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. Without limiting the foregoing, no stereo

speakers or other sound equipment shall be installed in or attached to the wall between two Homes.

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 Home located thereon.

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 Parcel 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.

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

8.13 OTHER STRUCTURES: No structure of a temporary character, including, without limitation, a trailer, recreational vehicle, mobile home, tent, solarium, greenhouse, shack or other out-building shall be used, stored or maintained anywhere in or on the Premises either temporarily or permanently, except as expressly approved, in writing, by the Managers.

8.14 SOLAR ENERGY SYSTEMS: Subject to the provisions of Sections 3.07 and 9.09, a Home may be improved with a solar energy system, provided that the solar energy system is in compliance with the Solar Energy System Policy adopted by the Managers, as may be amended by the Board from time to time. The Solar System Policy shall be kept on file with the Association.

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 of the Declarant in this Article shall terminate and be of no further force and effect five (5) years after the Declarant is no longer vested with or controls 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 Development Area or at other properties in the general location of the Development Area 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 Parcel.

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) at such time as the 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, (iii) ten (10) years from the date of Recording hereof, or (iv) the date required under applicable statute. 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 (other than Declarant) 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, in whole or in part . 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 the real estate legally describe in Section II of Exhibit B hereto (each a "Common Area Lot") without the prior written consent of the Declarant. Any such lien or encumbrance placed or imposed on a Common Area Lot without Declarant's consent shall be null and void. In order to reflect or conform to a change in the Declarant's Development Plan, any time prior to the end of the Declarant Rights Period, the Declarant shall have the right and power to (i) Record a Supplemental Declaration pursuant to Article XII to withdraw and remove any portion or portions of a Common Area Lot from the Common Area, and (ii) require the Association to convey such portion or portions of a Common Area Lot 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 Parcels, (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 and/or requirements of the Municipality, (v) to amend Exhibit A to include additional real estate, and/or (vi) to reflect a change in the Declarant's Development Plan. 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 Parcel and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to 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 2.15, 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 Parcels; 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, and (ii) until such time as the rights and powers of the Declarant under Article Nine terminate, the provisions of Article Nine, Article Twelve 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. 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 Parcel shall no longer have the legal access to a public way from his Parcel. 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 Parcel 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 Parcel 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 Parcel subject to the First Mortgagee's mortgage;

(g) Notice of any default by the Owner of the Parcel 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 Parcels (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 Parcel;

(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 Parcel with respect to any such distribution to or with respect to such Parcel; 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 twenty (20) 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 made subject 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 Parcels contained in the Added Premises shall be referred to as "Added Parcels". After the expiration of said twenty (20) 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 Parcels then subject to this Declaration is first obtained.

12.02 POWER TO AMEND: Declarant hereby reserves 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. 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 Parcels 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 Parcel shall be a member of the Association on the same terms and subject to the same qualifications and limitations as those members who are Owners of Parcels 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 Parcels, 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 Parcel 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 Parcel which is subject to assessment hereunder shall be responsible for the payment of the Common Assessment pursuant to Section 6.02, but shall not be responsible for the payment of any special assessment which was levied prior to the time that the Added Parcel 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 Parcel 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 Parcel, 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 Parcel 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 Parcel, 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 Parcel.

(b) Any Party Wall damaged or destroyed by some act or event other than one caused by the Owner of a Parcel 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 Parcels 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 Parcel.

13.04 CHANGE IN PARTY WALL: Any Owner of a Parcel who proposes to modify, rebuild, repair or make additions to any structure upon his Parcel 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 Parcel 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 Parcels 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

Dispute Resolution

14.01 ALTERNATIVE PROCEDURES FOR RESOLVING DISPUTES:

(a) Declarant and its managers, officers, directors employees and agents; the Association, its managers, officers, directors and committee members; all Persons subject to this Declaration; and any Person not otherwise subject to this Declaration who agrees to submit to this Article (each of such entities, a “Bound Party” hereunder) agree that it is their desire to efficiently and quickly resolve any disputes that arise, and that any Dispute (as hereinafter defined) shall first be submitted to mediation and, if not settled during mediation, shall thereafter be submitted to binding arbitration as provided by the Federal Arbitration Act (9 U.S.C. §§1 et seq.) and not a court of law or equity. Accordingly, each Bound Party covenants and agrees to submit all Disputes to the procedures set forth in Section 14.03 below and, if applicable, the dispute resolution provisions contained in the purchase agreement for the sale by Declarant (as the seller) and purchase by an Owner (as the purchaser) of a Home on a Parcel (the “Purchase Agreement”). In the event of an inconsistency or contradiction between the provisions relating to dispute resolution as set forth in this Declaration and those which are set forth in the Purchase Agreement (if applicable), the provisions of the Purchase Agreement shall prevail.

(b) For purposes hereof, “Disputes” (whether contract, warranty, tort, statutory or otherwise) shall include, but are not limited to, any and all controversies, disputes or claims: (i) arising out of or relating to the interpretation, application or enforcement of the provisions of this Declaration, the Operating Agreement and/or reasonable rules and regulations adopted by the Managers or the rights, obligations and duties of any Bound Party under the provisions of this Declaration, the Operating Agreement and reasonable rules and regulations adopted by the Managers, (ii) relating to the design or construction of improvements; (iii) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party or its representative; (iv) arising under, or related to, the Purchase Agreement, the Parcel and the Home constructed thereon, the Development or any dealings between the Declarant and Owner, (v) relating to personal injury or property damage alleged to have been sustained by an Owner, Owner’s children or other occupants of the home on the

Parcel or the Premises, (vi) relating to issues of formation, validity or enforceability of any portion of this Article.

(c) Notwithstanding the provisions of Section 14.01(a) and 14.01(b) above, unless the involved Bound Parties otherwise agree, the following shall not be Disputes and shall not be subject to the provisions of Section 14.03: (i) any suit by the Association against any Bound Party to enforce the provisions of Article Six; (ii) any suit by the Association or the Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to act under and enforce the provisions of the Declaration; (iii) any suit between or among Owners, which does not include the Declarant or the Association as a Party, if such suit asserts a Dispute which would constitute a cause of action independent of the provisions of this Declaration, the Operating Agreement and reasonable rules and regulations adopted by the Managers; and (iv) any suit in which any indispensable party is not a Bound Party.

14.02 ACTION BY THE ASSOCIATION:

(a) Consensus for Action by the Association. Except as specifically provided in this Section 14.02(a), the Association may not commence a legal proceeding or an action under this Article without the affirmative vote of at least seventy-five percent (75%) of the Voting Members. A Voting Member representing Parcels owned by Persons other than the Voting Member shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of Owners of two-thirds of the total number of Parcels represented by the Voting Member. This Section shall not apply, however, to (i) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), the Operating Agreement and reasonable rules and regulations or policies adopted by the Managers; (ii) actions to enforce the terms of any contract or agreement to which the Association is a party, (iii) the imposition and collection of Annual Assessments; (iv) proceedings involving challenges to ad valorem taxation; or (v) counterclaims brought by the Association in proceedings instituted against it.

(b) Commencement of Proceeding Against Declarant. Prior to the Association or any member commencing any proceeding to which the Declarant is a Party, including but not limited to an alleged defect of any improvement, the Declarant shall have the right to be heard by the members, or the particular member, and to access, inspect, correct the condition of, or redesign any portion of any improvement as to which a defect is alleged or otherwise correct the alleged dispute.

14.03 MANDATORY PROCEDURES:

(a) Notice. As a condition precedent to seeking any action or remedy, a Bound Party having a Dispute ("Claimant") against any other Bound Party ("Respondent") (the Claimant and the Respondent referred to herein being individually, as a "Party," or, collectively, as the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

(i) the nature of the Dispute, including the defect or default, if any, in detail and the Persons involved and Respondent's role in the Dispute;

(ii) the legal basis of the Dispute (i.e., the specific authority out of which the Dispute arises);

(iii) the proposed remedy;

(iv) any evidence that depicts the nature and cause of the Dispute and the nature and extent of repairs necessary to remedy the Dispute, including expert reports, photographs and videotapes; and

(v) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Dispute.

Notices given to Respondent pursuant to this Section shall be deemed sufficient if personally delivered, delivered by commercial messenger service, or mailed by registered or certified mail, postage prepaid, return receipt requested to the last known address of the Respondent as it appears on the records of the Association on the date of mailing.

(b) Disputes Involving Declarant. With respect to any Dispute to which the Declarant is the Respondent:

(i) Right to Inspect. Claimant agrees to permit Declarant and its agents to perform inspections and tests and to make all repairs and replacements deemed necessary by Declarant to respond to the Dispute. Declarant shall have the Cure Period (defined below) to inspect and correct any alleged default. The Declarant shall be given a reasonable opportunity to perform all inspections and tests and make all repairs and/or replacements deemed to be necessary by Declarant.

(ii) Right to Cure. The Declarant shall have the right to repair, replace or pay the Claimant the reasonable cost of repairing or replacing any defective item. Unless otherwise provided by law or agreed by the Parties, the Declarant shall have not less than 35 days nor more than 90 days from receipt of the Notice (the "Cure Period") to cure as provided herein or to otherwise respond to the Claimant in the event that the Declarant determines that no default has occurred and/or default exists. A Claimant shall have no right to bring any action against the Declarant until expiration of the Cure Period. The Cure Period shall be extended by any period of time that Claimant refuses to allow the Declarant to perform inspections and/or perform tests as provided in Section 14.03(b)(i). The Declarant shall have the right, but not the obligation, to take action during the Cure Period and/or respond to any notice received from Claimant.

(iii) Time. The time periods provided for the inspection and cure by the Declarant shall be extended by any period of time that Claimant refuses to allow Declarant to make inspections, tests, repairs and/or replacements. Any inspection, test,

repair or replacement performed on a business day between 9 a.m. and 5 p.m. shall be deemed to be reasonable hereunder.

(c) Negotiation. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Dispute by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Managers may appoint a representative to assist the Parties in negotiation. If the Parties do not resolve the Dispute within 90 days after the date of the date of the Notice and the Cure Period has expired (“Termination of Negotiations), either Party shall have 30 days from the date of Termination of Negotiations to submit the Dispute to mediation.

(e) Mediation. If the Parties are unable to agree to a mediator, the Parties shall utilize the American Arbitration Association (“AAA”) for this role. The Parties expressly agree that the mediator’s charges shall be equally shared and that each Party shall be responsible for its own costs and fees, including attorneys’ fees and consultant fees incurred in connection with the mediation. If a Claimant does not submit the Dispute to mediation within such time, or does not appear for the mediation, then the Claimant shall be deemed to have waived the Dispute, and the Respondent shall be released and discharged from any and all liability to Claimant on account of such Dispute.

(f) Arbitration. If the Dispute is not fully resolved by mediation, the Dispute shall be submitted to binding arbitration and administered by the AAA in accordance with the AAA’s Construction Industry Arbitration Rules. In no event shall the demand for arbitration be made after the date when the institution of legal or equitable proceedings based on the Dispute, would be barred by the applicable statute(s) of limitations, which such statute(s) of limitations the Parties expressly agree apply to any Dispute. The decision of the arbitrator(s) shall be final and binding on both Parties. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Dispute. If the Dispute amount exceeds \$250,000.00 or includes a demand for punitive damages, the Dispute shall be heard and determined by three arbitrators; however, if mutually agreed to by the Parties, then the Dispute shall be heard and determined by one arbitrator. All decisions respecting the arbitrability of any Dispute shall be decided by the arbitrator(s). Except as may be required by law or for confirmation of an award, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.

14.04 COSTS: Unless otherwise recoverable by law or statute, each Party shall bear its own costs and expenses, including attorneys’ fees and paraprofessional fees, for any mediation and arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law or equity, the non-contesting Party shall be awarded reasonable attorneys’ fees, paraprofessional fees and expenses incurred in defending such contest, including such fees and costs associated with any appellate proceedings. In addition, if a Party fails to abide by the terms of a mediation settlement or arbitration award, the other Party shall be awarded reasonable attorneys’ fees, paraprofessional fees and expenses incurred in enforcing such settlement or award.

14.05 TIME FOR COMMENCEMENT: THE PARTIES AGREE THAT ANY LAWSUIT OR ARBITRATION PROCEEDING (WHICHEVER MAY APPLY) ARISING FROM OR RELATING TO ANY DISPUTE MUST BE COMMENCED WITHIN TWO YEARS AND ONE DAY FROM THE DATE THE CAUSE OF ACTION ACCRUES. TIME IS OF THE ESSENCE, SO THAT IF THE LAWSUIT OR ARBITRATION PROCEEDING IS NOT COMMENCED WITHIN THAT STATED PERIOD, THE DISPUTE IS BARRED AND WAIVED. FOR ARBITRATION PURPOSES, A CAUSE OF ACTION SHALL ACCRUE AS PROVIDED BY APPLICABLE STATUTE FOR THE INSTITUTION OF A LEGAL OR EQUITABLE PROCEEDING; AND IF THERE IS NO APPLICABLE STATUTE, THEN THE CAUSE OF ACTION, REGARDLESS OF A PARTY'S LACK OF KNOWLEDGE, ACCRUES ON DISCOVERY OF THE INJURY.

14.06 NO PRECLUSIVE EFFECT OR COLLATERAL ESTOPPEL: To the fullest extent permitted by applicable law, the Bound Parties agree that no finding or stipulation of fact, no conclusion of law, and no arbitration award in any other arbitration, judicial, or similar proceeding shall be given preclusive or collateral estoppel effect in any arbitration hereunder unless there is mutuality of Parties. In addition, the Bound Parties further agree that no finding or stipulation of fact, no conclusion of law, and no arbitration award in any arbitration hereunder shall be given preclusive or collateral estoppel effect in any other arbitration, judicial, or similar proceeding unless there is mutuality of parties and then only as between those parties.

14.07 ENFORCEABILITY: The waiver or invalidity of any portion of this Article Twelve shall not affect the validity or enforceability of the remaining portions of this Article Twelve. The Bound Parties further agree (1) that any Dispute involving Declarant's affiliates, managers directors, officers, employees and agents shall also be subject to mediation and arbitration as set forth herein, and shall not be pursued in a court of law or equity; (2) that Declarant may, at its sole election, include Declarant's contractors, subcontractors and suppliers, as well as any warranty company and insurer or surety as parties in the mediation and arbitration; and (3) that the mediation and arbitration will be limited to the parties specified herein.

14.08 NO CLASS OR REPRESENTATIVE ACTIONS: THE BOUND PARTIES AGREE THAT A PARTY MAY RAISE A DISPUTE AGAINST ANOTHER PARTY ONLY ON AN INDIVIDUAL BASIS AND NOT AS A MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR COLLECTIVE PROCEEDING. THE ARBITRATOR(S) MAY NOT CONSOLIDATE OR JOIN DISPUTES REGARDING MORE THAN ONE PROPERTY AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. ALSO, THE ARBITRATOR(S) MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL DISPUTE(S). ANY RELIEF AWARDED CANNOT BE AWARDED ON CLASS-WIDE OR MASS-PARTY BASIS OR OTHERWISE AFFECT PARTIES WHO ARE NOT A PARTY TO THE ARBITRATION. NOTHING IN THE FOREGOING PREVENTS A PARTY FROM EXERCISING ITS RIGHT TO INCLUDE IN THE MEDIATION AND ARBITRATION THOSE PERSONS OR ENTITIES REFERRED TO ABOVE.

14.09 NO EXTENSION OF TIME: Nothing herein shall extend the time period by which a Dispute or cause of action may be asserted under the applicable statute of limitation or statute of repose, and in no event shall the Dispute be submitted for arbitration after the date when institution of a legal or equitable proceeding based on the underlying claims in such Dispute would be barred by the applicable statute of limitations or statute of repose.

14.10 OTHER DISPUTE RESOLUTION: Notwithstanding the obligation of Bound Parties to submit any Dispute to mediation and arbitration, to the extent that a particular Dispute is not subject to the mediation or the arbitration provisions contained in this Article Fourteen, or in the event that a judge determines an arbitration agreement is unenforceable, the Parties agree as follows: THE PARTIES ACKNOWLEDGE THAT JUSTICE WILL BEST BE SERVED IF ISSUES RELATING TO THE DISPUTE ARE HEARD BY A JUDGE IN A COURT PROCEEDING, AND NOT A JURY. THE PARTIES AGREE THAT ANY DISPUTE, CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE HEARD BY A JUDGE IN A COURT PROCEEDING AND NOT A JURY. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHT TO A JURY TRIAL. A PARTY SHALL CONTACT AN ATTORNEY OF THAT PARTY'S CHOICE IF SUCH PARTY DOES NOT UNDERSTAND THE LEGAL CONSEQUENCES OF THESE PROVISIONS. For any Dispute that involves a claimed amount of less than \$10,000, the parties may agree to litigate the Dispute before a judge in a court of small claims; however, any appeal of the judgment rendered in the small claims court will be subject to the mediation and arbitration provisions set forth in this Article Fourteen.

14.11 LIMITATION OF DAMAGES: By acceptance of deed, mortgage, trust deed or other evidence of obligations or other instrument relating to a Parcel, each Owner acknowledges and agrees that such Owner has waived and shall be deemed to have waived the right to any award of damages in connection with the arbitration of a dispute, other than such Owner's actual damages.

14.12 AMENDMENT OF ARTICLE: Without the express prior written consent of Declarant, this Article may not be amended for a period of twenty years from the date of the Recording of this Declaration.

ARTICLE FIFTEEN

Miscellaneous

15.01 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.

15.02 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.

15.03 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.

15.04 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.

15.05 TITLE HOLDING LAND TRUST: In the event title to any Parcel is held by a title holding trust, under the terms of which all powers of management, operation and control of the Parcel 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 Parcel. 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 Parcel and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Parcel.

15.06 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 Common 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 Parcels 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 Parcel 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 Parcel by the Designated Builder to a third party purchaser; and

(vii) The right to be treated as the Declarant under Section 15.07 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.

15.07 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]

**EXHIBIT A TO
DECLARATION OF FOR LIBERTY MEADOWS TOWNHOMES**

The Development Area

[To be inserted prior to recording]

**EXHIBIT B TO
DECLARATION FOR LIBERTY MEADOWS TOWNHOMES**

The Premises

I. Lots:

The following described lots shall be divided into Parcels as described in Section 1.21 of the Declaration to which this Exhibit is attached:

[To be inserted prior to recording]

II. Common Area:

A. All portions of each Parcel described in Section I. above, outside of the Home located on the Parcel.

B. *[To be inserted prior to recording]*

Underlying PIN: 07-19-101-021

**EXHIBIT C TO
DECLARATION FOR LIBERTY MEADOWS TOWNHOMES**

Operating Agreement

[See attached]

**OPERATING AGREEMENT
OF THE
LIBERTY MEADOWS TOWNHOME OWNERS ASSOCIATION, LLC**

This Operating Agreement is entered into as of _____, 202_, in Schaumburg, Illinois, between Liberty Meadows Townhome Owners Association, LLC, an Illinois limited liability company (the "Association"), and _____ its sole Member (sometimes referred to herein as the "Declarant").

A. Articles of Organization for the Association were filed with the Secretary of State of Illinois on _____, 202_; and

B. Declarant desires to set forth the terms and conditions governing the management, operation and affairs of the Association.

THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I
NAME OF ASSOCIATION**

The full legal name of the Association is Liberty Meadows Townhome Owners Association, LLC.

**ARTICLE II
PURPOSE AND POWERS**

2.01 **PURPOSES:** The purposes of the Association are to act on behalf of its Members collectively, as their governing body, with respect to the preservation, care, maintenance, replacement, improvement, enhancement, operation and administration of both real and personal property, for the promotion of the health, safety and welfare and the common use and enjoyment thereof by Members of the Association. This Operating Agreement is subject to the provisions of the Declaration for Liberty Meadows Townhomes ("Declaration") recorded with the Office of the Recorder of Deeds for DuPage County, Illinois, as amended or supplemented from time to time. All terms used herein (if not otherwise defined herein) shall have the meanings set forth in the Declaration.

2.02 **POWERS:** The Association shall have and exercise all powers as are now or may hereafter be granted by the Illinois Limited Liability Company Act (the "Act"), the Declaration and this Operating Agreement; provided, however, that, except as specifically provided in Section 5.11 of the Declaration, the Association shall not have the power to institute, defend, intervene in, settle or compromise proceedings in the name of any Owner or member. Anything

to the contrary notwithstanding, any proposed amendment to the provisions of this Section 2.02 shall be effective only upon (i) the affirmative vote of Voting Members representing 100% of the title votes of the Association, and (ii) until such time as the Declarant no longer holds or controls title to any portion of the Premises, the prior written consent of the Declarant.

2.03 TAX STATUS. It is intended that the Association shall be treated as an association taxable as a corporation and, to the extent determined from time to time by the Board (as hereafter defined), shall elect to be treated as a “homeowners association” under Section 528 of the Internal Revenue Code, or any successor provision thereto.

ARTICLE III OFFICES

3.01 REGISTERED OFFICE: The Association shall have and continuously maintain in the State of Illinois a registered office and a registered agent whose office is identical with such registered office, and may have other offices within or without the State of Illinois as the Board may from time to time determine.

3.02 PRINCIPAL OFFICE: The Association’s principal office shall be maintained on the Development Area or at the office of the managing agent employed by the Association, if any.

ARTICLE IV MEETINGS AND ACTIONS OF MEMBERS

4.01 MEMBERSHIP. Each Owner shall be a member of the Association. There shall be one membership per Parcel. There shall be two classes of membership. The Declarant shall be the “Class B Member” with respect to Parcels or Parcels which it owns from time to time. Each Owner other than the Declarant shall be a “Class A Member” with respect to each Parcel which it owns. Membership shall be appurtenant to and may not be separated from ownership of a Parcel. Ownership of a Parcel shall be the sole qualification for membership. The Association shall be given written notice of the change of ownership of a Parcel within ten (10) days after such change.

4.02 VOTING RIGHTS: Any or all Members may be present at any meeting of the Members, but the voting rights shall be vested exclusively in the representative designated by the Owner of each Parcel, in writing or by electronic notice to the Association, and such representative shall be deemed a “Voting Member”, as defined in the Declaration. Notwithstanding the foregoing, prior to the Turnover Date, all of the voting rights at each meeting of the Association shall be vested exclusively in the Class B Member, the Declarant, and the Owners (other than Declarant) 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 who represents a Parcel owned by a Class A Member shall have one vote for each Parcel which the Voting Member represents and the Declarant, as the Class B Member, shall have ten (10) votes for each Parcel which it owns or each Home which is planned to be built on each Parcel (as shown on the Declarant’s Development Plan) which it

owns but which does not yet consist of Parcels. The Voting Members may vote in person or by proxy. All proxies shall be in writing, revocable, valid only for eleven (11) months from the date of execution and filed with the Secretary.

4.03 PLACE OF MEETING; QUORUM: Meetings of the Members shall be held at the principal office of the Association or at such other place in DuPage County, Illinois, as may be designated in any notice of a meeting. All meetings shall be conducted in accordance with the rules and provisions set forth in Roberts Rules of Order as from time to time published. Voting Members representing at least twenty percent (20%) of the total votes shall constitute a quorum. However, in the event quorum is not met for a particular meeting, the number of Voting Members required for quorum shall be reduced by fifty percent (50%) and shall continue to be reduced by fifty percent (50%) until such time as quorum is met and a meeting can be held; provided that quorum shall not be reduced to less than five percent (5%). Unless otherwise expressly provided herein or in the Declaration, any action may be taken at any meeting of the Members at which a quorum is present upon the affirmative vote of a majority of the Voting Members present at such meeting, including any matter which, under the Act, would otherwise require the unanimous consent of the Members.

4.04 ANNUAL MEETINGS: The first meeting of the Members (“First Meeting”) shall be held upon not less than twenty-one (21) days’ written notice given by the Declarant to the Members. If not called earlier by the Declarant, the First Meeting shall be held no later than thirty (30) days after the Turnover Date. Thereafter, there shall be an annual meeting of the Members (“Annual Meeting”) on the anniversary of the First Meeting, or at such other reasonable time or date (not more than thirty (30) days before or after such date) upon not less than twenty-one (21) days written notice given by the Board to the Members.

4.05 SPECIAL MEETINGS: A special meeting of the Members may be called at any time for the purpose of considering matters which, by the terms of the Declaration, require the approval of all or some of the Voting Members or for any other reasonable purpose. A special meeting shall be called by written notice to the Members by Declarant (prior to the First Meeting), a majority of the Board (after the First Meeting), or by twenty percent (20%) of the Voting Members (after the First Meeting), and delivered not less than twenty-one (21) days prior to the date fixed for said meeting. The notices shall specify the date, time, and place of the meeting and the matters to be considered.

4.06 NOTICE OF MEETINGS: Notices of meetings required to be given herein may be delivered either personally, by U.S. Mail or by E-mail to the Members, addressed to such Member at the address given by such Member to the Board for the purpose of service of such notice or to the Parcel of the Member, if no address has been given to the Board. A notice of meeting shall include an agenda of business and matters to be acted upon or considered at the meeting.

4.07 NO DUTY OWED BY MEMBERS: Except as otherwise provided herein or in the Declaration, a Member who is not also a Manager (as hereafter defined) owes no duty to the Association or to the other Members solely by reason of being a Member.

4.08 NO SERVICES DUE FROM MEMBERS: No Member shall be required to perform any services for the Association solely by reason of being a Member. No Member shall be entitled to any compensation for any services performed by such Member for the Association unless otherwise determined by the Board.

4.09 INDEMNIFICATION: The Association shall indemnify each Member for all authorized acts performed by such Member in respect of the Association, to the full extent permitted by the Act, but in no event for a Member's material breach of this Operating Agreement, criminal conduct, gross negligence or any fraudulent act committed by the Member.

ARTICLE V BOARD OF MANAGERS

5.01 IN GENERAL: After the First Meeting, the affairs of the Association shall be vested in the board of managers (the "Board"), which shall consist of three (3) persons (each a "Manager" and, collectively, the "Managers"), or such other number of persons as shall be fixed from time to time by the affirmative vote of not less than fifty percent (50%) of the Voting Members.

5.02 DECLARANT AS MANAGER: Anything herein to the contrary notwithstanding, the Declarant shall be the sole Manager and sole member of the Board until the First Meeting.

5.03 DELIVERY OF DOCUMENTS: Within sixty (60) days of the First Meeting, the Declarant shall deliver to the Board:

- (a) Original copies of the Declaration, this Operating Agreement and the Association's Articles of Organization and any other documents filed with the Secretary of State of the State of Illinois.
- (b) An accounting of all receipts and expenditures made or received on behalf of the Association by the Declarant.
- (c) All Association funds and bank accounts.
- (d) A schedule of all personal property, equipment and fixtures belonging to the Association, including documents transferring the property to the Association.

5.04 ELECTION: At the First Meeting, the Voting Members shall elect a full Board to replace the Declarant as the sole Manager. The two (2) candidates receiving the greatest number of votes shall each serve a two-year term and the candidate receiving the next greatest number of votes shall serve a one-year term. Thereafter, each Manager shall serve a two-year term. Each Manager shall hold office until his term expires or until his successor has been elected and qualified. Managers may succeed themselves in office. In all elections for Managers, each Class A Member shall be entitled to the number of votes equal to the number of Managers to be elected, and the Class B Member shall be entitled to the number of votes equal to the number of

Managers to be elected times ten (10). Cumulative voting shall not be permitted for Class A Members, but cumulative voting shall be permitted for the Class B Member.

5.05 BOARD MEETINGS: After the First Meeting, regular meetings of the Board shall be held at such time and place as shall be determined at the Annual Meeting or, from time to time, by a majority of the Board, provided that (i) the Board shall hold a meeting within thirty (30) days of the Annual Meeting, and (ii) not less than three (3) Board meetings (in addition to the Annual Meeting) shall be held during each fiscal year. Notice of regular meetings of the Board shall be given to each Manager, personally or by mail, at least two (2) days prior to the day named for any such meeting and such notice shall state the time and place of such regular meeting and such notice shall be posted conspicuously on the Premises so as to inform the Members of such meetings.

5.06 SPECIAL MEETINGS: After the First Meeting, a special meeting of the Board may be called by the President or at least one-third (1/3) of the Managers then serving.

5.07 WAIVER OF NOTICE: Before or at any meeting of the Board, any Manager may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Manager at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

5.08 QUORUM: A majority of the Managers serving from time to time shall constitute a quorum for the election of officers and for the transaction of business at any meeting of the Board, provided, that if less than a majority of the Managers are present at said meeting, a majority of the Managers present may adjourn the meeting from time to time without further notice. Except as otherwise expressly provided herein or in the Declaration, any action may be taken upon the affirmative vote of a majority of the Managers present at a meeting at which a quorum is present (“Board Action”).

5.09 POWERS AND DUTIES OF THE BOARD: The Board shall have all of the powers and duties granted to it or imposed upon it by the Declaration, this Operating Agreement, and the Act, including, without limitation, the following powers and duties:

- (a) To engage the services of a managing agent upon such terms and with such authority as the Board may approve;
- (b) To provide for the designation, hiring and removal of such employees and such other personnel, including attorneys and accountants, as the Board may, in its discretion, deem necessary or proper;
- (c) To provide for any maintenance, repair, alteration, addition, improvement or replacement of the Common Area for which the Association is responsible under the Declaration and this Operating Agreement;
- (d) To procure insurance as provided for under the Declaration;

(e) To estimate and provide each Member with an annual budget showing the Common Expenses;

(f) To set, give notice of, and collect from the Members, Common Assessments and other assessments, as provided in the Declaration;

(g) To pay the Common Expenses;

(h) Subject to the provisions of the Declaration, to own, convey, encumber or otherwise deal with any real property conveyed to or purchased by the Association;

(i) To adopt and, from time to time, to amend such reasonable rules and regulations as the Board may deem advisable for the use, enjoyment, administration, management, maintenance, conservation and beautification of the Common Area, and for the health, comfort, safety and general welfare of the Members and Residents. Written notice of any such rules and regulations or amendments thereto shall be given to all Residents affected thereby;

(j) To delegate the exercise of its power to committees appointed pursuant to Article Seven of this Operating Agreement;

(k) To borrow money and pledge the assets of the Association, including the right to receive future assessments, as collateral for repayment thereof; and

(l) To convey all or substantially all of the Association's assets to, merge with, or convert to, another entity, including a not-for-profit corporation, to the extent permitted by law.

5.10 COMPENSATION/REIMBURSEMENT FOR EXPENSES: Managers shall receive no compensation, except as expressly provided in a resolution duly adopted by not less than 75% of the Voting Members. Upon the presentation of receipts or other appropriate documentation, a Manager shall be reimbursed by the Association for reasonable out-of-pocket expenses incurred in the course of the performance of his or her duties as a Manager.

5.11 REMOVAL OR RESIGNATION OF A MANAGER: Prior to the First Meeting, the Declarant may not be removed as Manager without the Declarant's written consent. After the First Meeting, any Manager may be removed from office, with or without cause, by the affirmative vote of at least two-thirds (2/3) of the Managers then serving at any Annual Meeting or at a special meeting called for such purpose. Any Manager may resign at any time by submitting his written resignation to the Board. If after the First Meeting, a Manager ceases to be a Member or Voting Member, he or she shall be deemed to have resigned as of the date of such cessation. A successor to fill the unexpired term of a Manager who resigns may be appointed by a majority of the remaining Managers at any regular meeting or a special meeting called for such purpose and any successor so appointed shall serve the balance of his or her predecessor's term.

5.12 NO EXCLUSIVE DUTY: Except as otherwise provided in this Operating Agreement, the Managers shall not be required to manage the Association as their sole and exclusive function and the Managers may have other business interests and engage in other activities in addition to those relating to the Association. Neither the Association nor any Member shall have any right to share or participate in such other investments or activities of the Managers or to the income or proceeds derived therefrom.

5.13 LIMITATION OF LIABILITY: The Managers shall perform the duties of the Manager in good faith, in a manner which the Managers believe to be in the best interests of the Association, and with such care as an ordinarily prudent individual in a like position would use under similar circumstances. See Section 5.06 of the Declaration for provisions concerning limitations on the liability of Managers and other indemnification provisions.

5.14 INDEMNIFICATION: The Association shall indemnify each Manager for all acts performed by the Manager in respect of the Association, to the full extent permitted by the Act, but in no event for fraud, deceit, theft, misappropriation, embezzlement, willful misconduct or gross negligence relating to the Association.

ARTICLE VI OFFICERS

6.01 OFFICERS: The officers of the Association shall be a President, one or more Vice Presidents, a Secretary, Treasurer, and such assistants to such officers as the Board may deem appropriate and shall hold office at the discretion of the Board. After the First Meeting, officers shall be Managers and shall be elected annually at the first Board meeting following the Annual Meeting.

6.02 VACANCY OF OFFICE: Any officer may be removed at any meeting of the Board by the affirmative vote of the majority of the Managers in office, either with or without cause. Any officer may resign at any time by submitting his or her written resignation to the Board. If after the First Meeting, an officer ceases to be a Member or Voting Member, he or she shall be deemed to have resigned as of the date of such cessation. A successor to fill the unexpired term of an officer who resigns or is removed may be appointed by the Board at any regular meeting or a special meeting called for such purpose and any successor so appointed shall serve the balance of his or her predecessor's term.

6.03 POWERS OF OFFICERS: The respective officers of the Association shall have such powers and duties as are from time to time prescribed by the Board and as are usually vested in such officers, including but not limited to, the following:

- (a) The President shall be the Chief Executive Officer of the Association and shall preside at all meetings of the Members and at all meetings of the Board and shall execute amendments to the Declaration and this Operating Agreement as provided in the Declaration and this Operating Agreement.

(b) The Vice President shall, in the absence or the disability of the President, perform the duties and exercise the powers of such office;

(c) The Secretary shall keep minutes of all meetings of the Members and of the Board and shall have charge of such other books, papers and documents as the Board may prescribe;

(d) The Treasurer shall be responsible for Association funds and securities and for keeping full and accurate accounts of all receipts and disbursements in the Association books of accounts kept for such purpose.

6.04 OFFICERS' COMPENSATION: The officers shall receive no compensation for their services, except as expressly provided by a resolution duly adopted by not less than 75% of the Voting Members.

ARTICLE VII COMMITTEES DESIGNATED BY BOARD

7.01 BOARD COMMITTEES: The Board may, by Board Action, designate one or more committees, each of which shall consist of two or more Managers, which committees, to the extent consistent with law and as provided in said resolution, shall have and exercise the authority of the Board in the management of the Association; but the designation of such committees and delegation thereto of authority shall not operate to relieve the Board, or any individual Manager, of any responsibility imposed by law upon the Board or any individual Manager.

7.02 SPECIAL AND STANDING COMMITTEES: Other committees not having and exercising the authority of the Board in the management of the Association may be designated by a resolution adopted by Board Action. Except as otherwise provided in such resolution, members of each such special committee shall be Members or Voting Members and the President shall appoint the members of such special committee, as well as a Manager to act as the liaison between the special committee and the Board. Any member of such special committee may be removed by the President whenever in his or her judgment the best interests of the Association shall be served by such removal. The powers and the duties of any standing committee shall be as set from time to time by resolution of the Board. The President shall designate a Manager (who shall act as the liaison between the standing committee and the Board) to serve as the chairman of each standing committee, and the other members of the standing committee (who need not be Managers) shall be appointed and removed from time to time by such chairman.

7.03 TERM: Each member of a committee shall continue as such until the next Annual Meeting of the Board and until his or her successor is appointed, unless the committee shall be sooner terminated, or unless such member shall be removed from such committee, or unless such member shall cease to qualify as a member thereof.

7.04 CHAIRPERSON: Except as otherwise provided in Section 7.02, one member of

each committee shall be appointed chairperson.

7.05 VACANCIES: Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments to such committee.

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

7.07 RULES: Each committee may adopt rules for its own governance not inconsistent with the Declaration, this Operating Agreement or with rules adopted by the Board.

ARTICLE VIII CONTRACTS, CHECKS, DEPOSITS AND FUNDS

8.01 CONTRACTS: The Board may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by this Operating Agreement, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances. In the absence of any such authorization by the Board, any such contract or instrument shall be executed by the President or a Vice President and attested to by the Secretary or an Assistant Secretary of the Association.

8.02 PAYMENTS: All checks, drafts, vouchers or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association, and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President or a Vice President of the Association.

8.03 BANK ACCOUNTS: All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board shall elect.

8.04 SPECIAL RECEIPTS: The Board may accept on behalf of the Association any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Association.

ARTICLE IX FISCAL MANAGEMENT

9.01 FISCAL YEAR: The fiscal year of the Association shall be established by the Association and may be changed from time to time by a resolution adopted by two-thirds (2/3) of the Board.

9.02 ANNUAL STATEMENT: Within a reasonable time after the close of each fiscal year, the Board shall furnish each Member with a statement of the income and disbursements of the Association for such fiscal year.

9.03 SPECIAL STATEMENT: Within ten (10) days after receipt of a written request from a Member, the Board shall provide the Member with a statement containing the following information:

(a) The status of the Member's account and the amount of any unpaid assessments or other charges due and owing from the Member; and

(b) The status and amount of any and all Capital Reserves.

9.04 ASSESSMENT PROCEDURE: Common Assessments and special assessments shall be made and collected as provided in the Declaration.

ARTICLE X TRANSFER OF MEMBERSHIP

10.01 MEMBERSHIP: The Owner of each Parcel shall automatically be a Member of the Association. There shall be one membership per Parcel. Membership shall be appurtenant to and may not be separated from ownership of a Parcel. Ownership of a Parcel shall be the sole qualification for membership. The Association shall be given written notice of a proposed change of ownership of a Parcel within ten (10) days prior to such change. Any attempt to transfer membership in the Association separate from ownership of a Parcel shall be invalid, null and void, and of no force and effect.

10.02 NO VOLUNTARY DISSOCIATION: Except as otherwise provided by Section 10.01 above, a Member shall not be permitted to voluntarily dissociate from the Association.

ARTICLE XI BOOKS AND RECORDS

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Members, the Board, and committees having any of the authority of the Board, and shall keep at the registered or principal office of the Association a record including the following: (i) the names and last known address of the Members, setting forth the date on which each became a Member; (ii) a copy of the Articles of Organization of the Association, as amended or restated, together with executed copies of any powers of attorney pursuant to which any articles, applications, or certificates have been executed; (iii) copies of the Association's financial statements and federal, state, and local income tax returns and reports for the three (3) most recent years, where applicable; and (4) copies of the Operating Agreement and any amendments thereto. All books and records of the Association may be inspected and copied by any Member, or his or her mortgagee, agent or attorney, at any reasonable time. The Member

shall reimburse the Association for all costs and expenses incurred by the Association in connection with that Member's inspection and copying of such records.

ARTICLE XII
MISCELLANEOUS PROVISIONS

12.01 GOVERNING LAW. This Operating Agreement shall be interpreted in accordance with the internal laws of the State of Illinois, without regard to its rules governing conflict of laws.

12.02 VALIDITY. The provisions of this Operating Agreement are intended to be interpreted and construed in a manner which renders them valid and enforceable. In the event that any provision of this Operating Agreement is found to be invalid or unenforceable, such provision shall be deemed excised from this Operating Agreement without affecting the validity or enforceability of any of the remaining provisions hereof.

12.03 JURISDICTION AND VENUE. All disputes arising under or in connection with this Operating Agreement shall be resolved and disposed of by the federal and state courts located in the County where the Declaration is recorded, and the Association, Managers, and Members irrevocably consent to the exclusive personal jurisdiction of such courts and venue therein.

ARTICLE XIII
AMENDMENTS

This Operating Agreement may be amended or modified at any time, or from time to time, by the affirmative vote of two-thirds of the Managers then serving provided, that (a) no provision of this Operating Agreement may be amended or modified so as to conflict with the provisions of the Declaration or the Act, and (b) no provision of this Operating Agreement which affects the rights of the Class B Member may be amended or modified without the written consent of the Class B Member.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Operating Agreement as of the first date set forth above.

ASSOCIATION:

Liberty Meadows Townhome Owners
Association, LLC, an Illinois limited liability
company

By: _____,
its sole Member and Manager

By: _____
Its _____

MEMBER/DECLARANT:

By: _____
Its _____