

of the amounts fixed with respect to Lots owned by Owners other than Declarant. Prior to the completion of a townhouse on any Lot, such Lot shall be exempt from assessments.

SECTION 8. Deficiency Contributions. For every calendar year during which Declarant remains a Class "B" Member of the Association, Declarant shall contribute to the Association all funds in excess of the budgeted and collected assessments which shall be necessary to defray the costs properly paid or incurred by it for the purposes for which annual assessments may be collected, all without limitation to the maximum amounts provided under Section 3. Declarant's contribution for the calendar year during which Declarant's Class "B" membership terminates shall be prorated to the date of such termination.

For purposes hereof, the establishment of reserves pursuant of Section 4 of this Article Six does not constitute the payment or incurring of costs by the Association and Declarant's deficiency contribution shall not be required to be applied to the establishment of reserves.

SECTION 9. Date of Commencement of Annual Assessments, Due Dates: The annual assessments provided for herein shall commence for any Lot within the Properties or any phase thereof annexed to the Properties on the day of the conveyance of the first Lot in the Properties or such phase and shall be prorated for the month of said conveyance. The Board of Directors shall fix the amount of the annual assessment against each Lot at.

least thirty (30) days in advance of each annual assessment period and in lieu thereof, the amount of the prior year's annual assessment shall be the fixed amount. Written notice of any changed amount of the annual assessment shall be sent to every Owner subject thereto. The due dates when said annual assessments are due and payable shall be established by the Board of Directors.

SECTION 10. Initial Assessments. At the time of the initial sale of any Lot from Declarant to any Owner, such Owner shall pay to Declarant for the use of the Association a sum equal to one sixth (1/6) of the Annual Assessment then in effect. Such sum shall be delivered by Declarant to the Association for use as described in Section 2 of this Article Six. The Initial Assessment for any Lot shall be levied only upon the sale by Declarant to an Owner and shall not be levied on any subsequent sales of the Lot.

SECTION 11. Certificate of Payment. The Association shall, upon demand, furnish to any Owner liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether the annual assessments on a specified Lot have been paid and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of these certificates. Said certificates shall be conclusive evidence that any assessment therein stated to have been paid has in fact been paid. No charge shall be made for issuing.

from time to time said certificates to the Declarant on Lots then owned by Declarant.

ARTICLE SEVEN

EFFECT OF NONPAYMENT OF ASSESSMENTS, REMEDIES OF ASSOCIATION

SECTION 1. Delinquency. Any assessment provided for in this Declaration which is not paid when due, shall be delinquent. With respect to each assessment not paid within fifteen (15) days after its due date, the Association may, at its election, require the Owner to pay a "late charge" in a sum to be determined by the Association and applied uniformly. If any such assessment is not paid within thirty (30) days after the delinquency date, the assessments shall bear interest from the date of delinquency at the highest rate permitted by Illinois law, and the Association may, at its option, bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien (provided for in Section 1 of Article 6 hereof) against the Lot, and there shall be added to the amount of such assessment the late charge, the costs of preparing and filing a Complaint and such action and reasonable attorney's fees, and in the event a judgment is obtained, such judgment shall include interest together with the costs of bringing the action. Each Owner vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosures against such Owner for the collection of such delinquent assessments.

SECTION 2. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or trust deed. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure of a mortgage or trust deed or any proceeding or deed in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE EIGHT

PARTY WALLS

SECTION 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the townhouses and/or garages units in the subdivision and placed on the dividing line or adjacent to or near the dividing line (provided same serves two or more units) between the units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

SECTION 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or walls shall be shared by the Owners who make use of the wall or walls in proportion to such use.

SECTION 3. Encroachments and Overhangs. Since some of the individual townhouses in a building may be aesthetically and functionally designed with structures that encroach and/or overhang (above, beneath, and/or at grade level) adjoining Lots, the Owners of each Lot hereby take title subject to a perpetual easement for any such overhang and/or encroachment, which easement shall include the reasonable right of access thereto for inspection, maintenance, repair and/or replacement of all or a portion thereof. In the event of a fire or other casualty that results in a total or partial destruction of a townhouse or a building, each townhouse is entitled to be repaired or rebuilt in such a fashion to permit these overhangs or encroachments to be reestablished.

SECTION 4. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and, if the Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to require for a larger contribution of reimbursement from the other Owners under any rule of law regarding liability for negligent or willful acts or omissions.

SECTION 5. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements

shall bear the whole cost of furnishing the necessary protection against such elements.

SECTION 6. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE NINE

EASEMENTS

SECTION 1. Utility Easements. The Declarant hereby reserves unto itself, its successors, assigns and designees, the right to create, declare and grant over, above, under and across the Common Areas nonexclusive perpetual utility easements for the installation, construction, improvement or removal or reconstruction, replacement, substitution, and maintenance of sewer (storm and sanitary) water, gas, electricity, master television antenna and transmission systems, telephone and any other easements as may be necessary in the Declarant's sole judgment to develop, service and maintain the Properties. The aforesaid easement shall include reasonable rights of ingress and egress.

SECTION 2. Easement for Installation and Maintenance of Storm Water Lines. The Declarant hereby reserves unto itself, the Association and their respective successors, assigns and designees an easement over each of the Lots within the properties and the Common Areas for the following purposes:

(i) the installation, maintenance and repair of downspouts on

any townhome constructed on any Lot where deemed necessary or appropriate by Declarant or the Association or their successors or assigns to alleviate storm water run off problems and (ii) the installation, maintenance and repair of underground storm water lines on any Lot or the Common Area for connection to any downspout so installed by Declarant or the Association or their successors or assigns on that Lot or any other Lot, for connection to any storm water sewer constructed within the Properties. Such downspouts and/or storm water lines so installed by the Declarant, the Association or their respective successors, assigns and designees on any townhome, any Lot or any portion of the Common Area shall be and remain the property of the Association or its successors or assigns, and shall thereafter be maintained, replaced and repaired thereby. The aforesaid easement shall include reasonable rights for ingress and egress and shall be perpetual. No Owner of a Lot shall interfere with any downspout or storm water line installed on his townhouse or Lot, or the passing of storm water through the same.

SECTION 3. Ownership of Utility Lines. The Declarant shall initially own all storm sewers, sanitary sewers, and water lines when situated in, or over, under, along or across the Common Area and shall have the right (but not the obligation) of maintenance, replacement, repair or removal thereof and reasonable access thereto. Prior to the

termination of its Class B membership, Declarant shall transfer title to said storm sewers, sanitary sewers and water lines and Declarant's rights of maintenance, replacement, repair and removal thereof to any designee deemed beneficial or appropriate by Declarant (including the Association, the Village of Westchester, the County of Cook, any public utility, or any governmental or quasi-governmental authority), which transfer and assignment shall be effectuated by a bill of sale or other appropriate writing.

SECTION 4. Reservation of Easements for Declarant's Benefit. Anything contained in this Declaration to the contrary notwithstanding, the Declarant hereby reserves for itself, its agents, employees, contractors, sub-contractors, workmen, materialmen, invitees and any successor builders an easement under, over and across the Common Area (as amended from time to time by annexation) for the purposes of constructing, completing, repairing, maintaining, inspecting, exhibiting and selling any Lots or townhouses then owned by the Declarant.

SECTION 5. Easements for Construction Errors, Settlement, Shifting. Declarant hereby declares and reserves to itself and all Owners easements of not more than one (1) foot for the continuation, repair, and replacement of any walls or structures encroaching on any adjoining Lot by reason of inadvertent construction error, settlement, or shifting.

ARTICLE TEN

ARCHITECTURAL COMMITTEE

No structure, patio, improvement or addition (including, but not limited to those set forth in Article Twelve, Section 5 hereof), shall be erected, placed or altered on any Lot within the Properties described herein (except as are installed or approved by the Declarant in connection with the initial construction of the dwellings and other improvements on the Lot) until the building plans, specifications and plot plan showing the location and proposed erection, placement or alteration of any such structure, patio, improvement or addition have been approved in writing as to conformity of external design and harmony with existing structures on the Properties and as to location with respect to topography and finished ground elevation, by an architectural committee which shall consist of three (3) Members designated and replaced from time to time by the Declarant, 2360 Hassell Road, Hoffman Estates, Illinois 60195. The committee shall notify an applicant of such approval or disapproval of its action within thirty (30) days after said building plans and specifications and plot plan have been submitted to the committee; or, in the event, no suit to enjoin the erection, placement or alteration of such structure, patio, deck or other improvement or addition has been commenced prior to the completion thereof, such

approval will not be required, and this covenant shall be deemed to have been fully complied with. No member of such committee, nor its designated representative, shall be entitled to any compensation for such services performed pursuant to this covenant. The powers and duties of Declarant to designate and replace such committee shall cease at the time the last Lot of the Properties or any phase later annexed by Declarant is developed with a townhouse and is sold to a third party purchaser. Thereafter, such powers and duties shall be vested in the Board of Directors of the Association or in a committee duly appointed by such Board of Directors.

ARTICLE ELEVEN

DUTIES AND POWERS OF THE ASSOCIATION

SECTION 1. General. The Association shall have the power and duties to pay any real property taxes and other charges assessed against the Common Area; grant easements where necessary for public utilities over the Common Area to serve both the Common Area and the Lots; adopt reasonable rules and regulations controlling and limiting the use of the Common Area and further adopt rules and regulations supplementing the General Use Restrictions as provided by Article TWELVE hereof; maintain such policy or policies of insurance at all times as the Board of Directors deems necessary or desirable in furthering the purposes of and protecting the interests of the

Association and its members, officers and directors including, but not limited to those described in Article EIGHTEEN hereof; employ a manager or other persons and contract with independent contractors, managing agents, collection agents and others to perform and effectuate all or any part of the duties and powers of the Association, if deemed necessary by the Directors; and establish such reserves as may be required hereunder or as the Board of Directors shall from time to time deem necessary to fulfill and further the purposes of the Association.

SECTION 2. Common Area. The Association shall maintain, repair and replace the Common Area, and its elements, including but not limited to private streets, parking areas, grass, trees, shrubs, plantings, creeks, lighting, private sidewalks and other improvements located upon the Common Area, and shall snowplow the same to the extent deemed by the Board to be beneficial and convenient.

SECTION 3. Lots. The Association shall maintain and repair the Lots and the townhomes located thereon, as follows:

- (a) Painting, maintenance and repair and replacement of and tuckpointing of all exterior surfaces of the Owner's home, excluding any glass surfaces, but specifically including, among other things, siding, roofs, chimneys, gutters, downspouts and shutters. All of the foregoing services shall comply with the aesthetic standards from time to time adopted by the Architectural Committee pursuant to Article TEN hereof.

- (b) Maintenance of the lawns and the original and normal complement of landscaping (as defined and limited by the Board) within each Lot unless fenced, surrounded by shrubs, landscaped, improved or equipped by the Owner in such manner as to preclude convenient access by large equipment.
- (c) Refuse collection, snow removal and other services with respect to the residence areas to the extent deemed by the Board to be beneficial and convenient. In the event the Village of Westchester has, by franchise, license, or other contractual arrangement, granted the rights to provide refuse removal services throughout the Village to any entity, such entity shall have the right to remove refuse from the Lots for such fees as are uniformly charged by the Village for such services throughout the Village.

The foregoing services provided by the Association in regard to exterior surfaces of an Owner's home shall be limited to normal wear and tear and the Owner shall be solely responsible for all exterior repair and replacement resulting from causes other than normal wear and tear, including but not limited to losses from casualties for which Association or the Owner has obtained insurance coverage and shall be solely responsible for all interior and structural repair and replacement. Insurance proceeds from policies obtained by the Association shall be .

made available to any such Owner to defray the cost of rebuilding in the event of casualty loss covered by such policies. In the event the Owner shall fail to effect promptly the rebuilding, repairs or replacements of his townhome necessitated by causes other than normal wear and tear, or losses from casualties including those for which the Association has obtained insurance coverage, the Association may (but shall not be required to) effect such repairs and replacements and the Association shall be entitled to reimbursement in full from the Owner for its costs of every kind incurred in connection therewith, including the right to any insurance proceeds. Subject to the rights of the first mortgagee, if any, in the event of loss, all insurance proceeds recovered shall be applied to effect such repairs and replacements. In the event the Owner shall fail to effect such repairs and replacements, the Association may elect upon reasonable notice (but shall not be required) to do so, and in such event, the expenditures incurred by the Association (including those in excess of any available insurance proceeds) shall become the personal obligation of the Owner and a continuing lien on the Lot, recoverable with interest, costs and reasonable attorneys' fees in the same manner and to the same extent as provided under Article SIX Section 1 and shall give rise to the remedies available to the Association provided in Article SEVEN.

ARTICLE TWELVE

USE RESTRICTIONS

SECTION 1. Residential Use. The Properties are hereby restricted to residential dwellings, and ancillary and accessory uses and buildings in connection therewith (except for model homes and sales offices which may be operated by Declarant or its designees during the construction or sales period). All buildings or structures erected on the Properties shall be of new construction and no buildings or structures shall be moved from other locations to the Properties and no subsequent buildings or structures other than townhouses shall be built on any Lot where the Declarant has theretofore constructed a townhouse. No building or structure of a temporary character, trailer, tent, shack, garage, barn, or other outbuilding shall be placed on or used on any Lot at any time as a residence either temporarily or permanently.

SECTION 2. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot except for dogs and cats kept as household pets.

SECTION 3. Commercial Activities, Nuisances. No advertising signs, billboards, objects of unsightly appearance or nuisances shall be erected, placed or permitted to remain on any Lot, nor shall any Lot be used in any way or for any purpose which may endanger the health or unreasonably disturb the residents of the Properties except that no more than one

(1) "for sale" sign or "for rent" sign of not more than five (5) square feet shall be maintained on any Lot and no such signs shall be permitted or the size of such signs shall be limited if the ordinances of general applicability of the Village of Westchester so provide. No commercial activities of any kind whatever shall be conducted on any building or on any portion of the Properties except activities intended primarily to service residents in the Properties. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its designees, or the use or operation of sales offices or model units on any Lots by the Declarant or its designees during the construction and sales period or by the Association in furtherance of its powers and purposes set forth hereinafter and in its Articles of Incorporation, By-Laws and Rules and Regulations, as the same may be amended from time to time. The Declarant and its successors and assigns shall have the right to rent any or all units.

SECTION 4. Screening, Trash Removal. All clotheslines, equipment, garbage cans, service sheds, woodpiles, and storage piles shall be screened by adequate planting or fencing so as to conceal them from view of neighboring Lots and streets. All rubbish, trash and garbage shall be regularly removed from the Properties and shall not be allowed to accumulate thereon. In the event the Village of Westchester has, by franchise, license

or other contractual arrangement, granted the exclusive rights to provide trash removal services throughout the Village to any entity, such entity shall have the right to remove trash from the properties for such fees as are uniformly charged by the Village for such services throughout the Village. The foregoing restrictions shall not apply to the activities of Declarant, its designees and those working for or on behalf of Declarant during the construction and sales period.

SECTION 5. Changes or Improvements. Awnings and other additions, changes or improvements to any building, changes in the colors of exterior building surfaces or any part thereof (including roofs, siding, doors, storm doors, windows, trim or window air conditioning units) or the placement of any fences, patios, decks or outbuildings on the rear portion of any Lot by any Owner other than Declarant will be allowed only with the approval of the Architectural Committee referred to herein.

SECTION 6. Derricks, etc. No derrick or other structure designed for use in boring, mining, or quarrying for oil or natural gas, precious minerals, shall be erected, maintained or permitted upon any Lot in the Properties, provided that nothing in this Declaration shall be constructed to restrict a public utility from erecting, maintaining, and operating upon any Lot owned by it within the Properties, a well, housing, and equipment for the purpose of extracting from the sub-surface and/or the treatment, storage and distribution of water through the system of such public utility.

SECTION 7. Radio, T.V. Antennae. No radio or television receiving or transmitting antennae or external apparatus shall be installed on any Lot. Normal radio and television installations wholly within a building are excepted.

SECTION 8. Maintenance of Easement Areas. Easements for installation and maintenance of the utilities, sewer pipelines and facilities and drainage facilities over each of said Lots, and all pipelines and other facilities located and to be located in said easements are reserved as shown on the recorded Plat of Subdivision or as created in accordance with this Declaration of Covenants, Conditions and Restrictions or any amendments hereof. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction in the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, a private or public utility company or the Association is responsible.

SECTION 9. Leases of Lots. Any Owner may lease his Lot, but no lease may be for a period of less than thirty (30) days. All leases must be made expressly subject to the terms of this Declaration.

SECTION 10. Prohibition of Fences. Except as provided in SECTION 4 of this ARTICLE TWELVE, there shall be no fences constructed on any Lot within the properties, unless approved by the Village.

ARTICLE THIRTEEN

RECONSTRUCTION

Each Owner, his successors and assigns, hereby covenants and agrees at all times to maintain his Lot and the townhouse dwelling unit constructed thereon in a neat and proper condition and to perform all necessary repairs thereto.

ARTICLE FOURTEEN

JOINT CONNECTION OF SEWER, WATER,
ELECTRICAL, GAS AND TELEPHONE LINES

The rights and duties of the Owners of Lots within the Properties with respect to sewer, water, gas and telephone shall be governed by the following:

(a) Wherever joint house connections of sanitary and storm sewer, water, electricity, gas or telephone lines are installed within the Properties, and the connections, or any portion thereof, lie in or upon Lots owned by others than the Lot Owners served by said connections, the Association and other Owners of any Lots served by said connection shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon Lots or have the utility companies enter upon the Lots within the Properties in or upon which said connection, or any portion thereof, lies