

ARTICLE FIVE
The Association

5.01 IN GENERAL: Declarant has caused or shall cause the Association to be incorporated as a not-for-profit corporation under Illinois law. The Association shall be the governing body for all of the Owners for the administration and operation of the Community Area. The Association shall be responsible for the maintenance, repair and replacement of the Community Area.

5.02 MEMBERSHIP Each Owner shall be a member of the Association. There shall be one membership per Dwelling Unit. Membership shall be appurtenant to and may not be separated from ownership of a Dwelling Unit. Ownership of a Dwelling Unit shall be the sole qualification for membership. The Association shall be given written notice of the change of ownership of a Dwelling Unit 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 Dwelling Unit. The Voting Member or his proxy shall be the individual who shall be entitled to vote at meetings of the Owners. If the Record ownership of a Dwelling Unit 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 Dwelling Unit shall be designated by such Owner or Owners in writing to the Board and if in the case of multiple individual Owners no designation is given, then the Board at its election may recognize an individual Owner of the Dwelling Unit as the Voting Member for such Dwelling Unit.

5.04 BOARD: Subject to the rights retained by the Declarant under Section 9.05, the Board shall consist of that number of members provided for in the By-Laws, 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 Declarant and the Owners shall have no voting rights. From and after the Turnover Date, all of the voting rights at any meeting of the Association shall be vested in the Voting Members and each Voting Member shall have one vote for each Dwelling Unit which the Voting Member represents. From and after the Turnover Date any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided in the By-Laws) upon an affirmative vote of a majority by the Voting Members present at such meeting, except as otherwise provided herein or in the By-Laws.

5.06 DIRECTOR AND OFFICER LIABILITY: Neither the directors nor the officers of the Association shall be personally liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors and officers 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, Declarant and each of the directors

and officers, his heirs, executors or administrators, against all contractual and other liabilities to others arising out of contracts made by or other acts of the directors and officers on behalf of the Owners or the Association or arising out of their status as directors or officers 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 director may be involved by virtue of such person being or having been such director or officer; 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 director or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer.

5.07 MANAGING AGENT: The Declarant (or an entity controlled by 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 90 days written notice.

5.08 DISSOLUTION. Although it is currently anticipated that the Association will own and maintain the Community Area, it is possible that a governmental agency may accept a dedication or conveyance of all of the Community Area and accept responsibility for maintenance of the Community Area. If that occurs and the Association has no maintenance responsibilities, then at the option of the Declarant (which may be exercised at any time prior to the Turnover Date) or at the option of the members of the Association (which may be exercised by action of the members after the Turnover Date), the Association shall be dissolved and liquidated and thereafter the provisions of this Declaration which deal with the powers and duties of the Association shall be null and void and of no further force and effect. Any distribution of assets of the Association shall be made to the Owners of Dwelling Units in equal amounts for each Dwelling Unit owned.

5.09 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 Dwelling Units 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 By-Laws or rules and regulations adopted by the Board (including, without limitation, an action to recover Charges or to foreclose a lien for unpaid Charges) or (b) counterclaims brought by the Association in proceedings instituted against it.

5.10 ATTENDANCE AT BOARD MEETINGS BY OWNERS: Owners may attend meetings of the Board only if, and to the extent, permitted by the Board in its discretion. It is not the intention that Owners shall have the right to attend meetings of the Board in the same manner as provided for members of condominium associations under the Illinois Condominium Property Act.

ARTICLE SIX

Assessments

6.01 PURPOSE OF ASSESSMENTS: The assessments levied by the Association shall be limited to the purposes of maintaining the Community Area, administering the affairs of the Association, paying the Community Expenses, and accumulating reserves for any such expenses.

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

- (1) The estimated Community Expenses;
- (2) The estimated amount, if any, to maintain adequate reserves for Community Expenses including, without limitation, amounts to maintain the Capital Reserve;
- (3) The estimated net available cash receipts from the operation and use of the Community Area, plus estimated excess funds, if any, from the current year's assessments;
- (4) The amount of the "Community Assessment" payable by the Owners, which is hereby defined as the amount determined in (1) above, plus the amount determined in (2) above, minus the amount determined in (3) above;
- (5) That portion of the Community Assessment which shall be payable with respect to the ensuing calendar year by the Owner of each Dwelling Unit which is subject to assessment hereunder, which shall be equal to the Community Assessment divided by the number of Dwelling Units, so that each Owner shall pay equal Community Assessments for each Dwelling Unit owned. The Community Assessment shall be paid in periodic installments as determined by the Board from time to time, but no less frequently than once each calendar year.

Anything in this Section to the contrary notwithstanding, during the Initial Development Period the assessment procedure set forth in Section 6.08 shall apply and the budget provided for in this Section need not disclose the information called for in Subsection (5) above, although the budget shall disclose the portion of each owner's share of the Community Assessment which shall be added to the Capital Reserve.

6.03 PAYMENT OF COMMUNITY ASSESSMENT: Each Owner of a Dwelling Unit which is subject to assessment shall pay to the Association, or as the Board may direct, that portion of the Community Assessment which is payable by each Owner of a Dwelling Unit under Section 6.02(5) or Section 6.08, as applicable, at such times as the Board shall determine from time to time.

6.04 REVISED ASSESSMENT: If after the Turnover Date the Community Assessment proves inadequate for any reason (including nonpayment of any Owner's assessment) or proves to exceed funds reasonably needed, then the Board may increase or decrease the assessment payable under Section 6.02(5) 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 Board may levy a special assessment as provided in this Section (i) to pay (or build up reserves to pay) expenses other than Community 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 Community 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 Dwelling Units in equal shares. No special assessment shall be adopted without the affirmative vote of Voting Members representing at least two-thirds (2/3) of the votes cast on the question. The Board 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 Board. 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 special reserve accounts to be used solely for making capital expenditures in connection with the Community Area (the "Capital Reserve"). Upon the closing of the first sale of a Dwelling Unit by the Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Capital Reserve in an amount equal to the lesser of (i) \$75.00, or (ii) one-fourth (three months) of the Community Assessment at the rate which shall become effective with respect to the Dwelling Unit as of the closing. The Board shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of improvements to the Community Area and other property owned by the Association and periodic projections of the cost of anticipated major repairs or replacements to the Community Area and the purchase of other property to be used by the Association in connection with its duties hereunder. Each budget shall disclose that percentage of the Community Assessment which shall be added to the Capital Reserve and each Owner shall be deemed to make a capital contribution to the Association equal to such percentages multiplied by each installment of the Community Assessment paid by such Owner.

6.07 INITIAL CAPITAL CONTRIBUTION: Upon the closing of the first sale of a Dwelling Unit by the Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Association in an amount equal to one year (twelve months) of the Community Assessment at the rate which shall become effective with respect to the Dwelling Unit as of the closing. Said amount shall be held and used by the Association for its working capital needs.

6.08 ASSESSMENTS DURING INITIAL DEVELOPMENT PERIOD: Anything herein to the contrary notwithstanding, until the Turnover Date (the "Initial Development Period"), the assessment procedure set forth in this Section shall apply.

(a) Fully Built-Out Budget. Each Budget prepared by the Board for a period during the Initial Development Period shall be based on the assumptions that (i) the Development has been fully constructed as shown on Declarant's plan for the Development and (ii) all proposed dwelling units have been sold and are occupied. The Declarant's plan for the Development shall be kept on file with the Association and may be modified from time to time by the Declarant.

(b) Owner's Obligation. Each month during the Initial Development Period each Owner (other than the Declarant) shall pay as the monthly Community Assessment with respect to each Dwelling Unit owned by the Owner, the amount provided for in the budget from time to time in effect pursuant to Subsection (a) above divided by the proposed number of dwelling units as shown on the Declarant's plan for the Development; provided, however, such amount payable during the Initial Development Period shall not exceed \$25.00 per month. Out of each such payment, the Association shall add that portion of the payment which is designated in the Budget as a capital contribution under Section 6.06 to the Capital Reserve. The balance of each such payment shall be used by the Association to pay the Community Expenses.

(c) Declarant's Obligation. During the Initial Development Period, the Declarant shall not be obligated to pay any amounts to the Association as a Community Assessment except as provided in this Subsection. During the Initial Development Period, the Declarant shall pay to the Association ("Subsidy Payments") an amount equal to the aggregate excess, if any, of (i) the Community Expenses incurred and paid over (ii) the aggregate amounts assessed to the Owners (other than Declarant) under Subsection (b). The Declarant shall make Subsidy Payments as needed during such period. A final accounting shall be made between Declarant and the Association with respect to the Subsidy Payments as soon as practicable after the end of the Initial Development Period. The Declarant shall not be responsible for the payment of any amounts to the Capital Reserve during the Initial Development Period.

6.09 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 Dwelling Unit and also shall be a personal obligation of the Owner in favor of the Association, all as more fully set forth in Article Seven.