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DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
THE TOWNHOMES OF CEDAR CROSSING II ASSOCIATION

This Declaration made this 3rd day of September,  
1999, by BUSCHMAN DEVELOPMENT, INC., an Illinois corporation,  
(hereinafter referred to as "Declarant"),

W I T N E S S E T H :

WHEREAS, Declarant is the owner of real estate with the  
following legal description:

LOTS 301 THROUGH 322 IN CEDAR CROSSING II FIRST  
RESUBDIVISION BEING A RESUBDIVISION OF PART OF SECTIONS  
3 AND 4, TOWNSHIP 45 NORTH, RANGE 10, EAST OF THE THIRD  
PRINCIPAL MERIDIAN, LAKE COUNTY, ILLINOIS.

(hereinafter referred to as the "Townhome Property").

WHEREAS, Declarant deems it desirable for the efficient  
preservation and enhancement of said real estate and the townhomes  
to be constructed thereon to set up an association to be known as  
THE TOWNHOMES OF CEDAR CROSSING II ASSOCIATION which shall be  
assigned the powers of maintaining and administering the Townhome  
Property and enforcing the conditions, restrictions and easements  
hereinafter contained.

NOW, THEREFORE, the Declarant hereby declares that the  
Townhome Property described herein shall be held, transferred, sold  
and conveyed subject to the following covenants, conditions,  
restrictions, and easements and that the declarations contained

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herein shall run with, be binding upon and inure to the benefit of each Lot described herein.

## ARTICLE I

### Definitions

Section 1.01. "Association" shall mean and refer to THE TOWNHOMES OF CEDAR CROSSING II, an Illinois not-for-profit corporation, its successors and assigns, to be organized by the Declarant.

Section 1.02. "Townhome Property" or "Property" shall mean and refer to that certain real estate described as follows:

LOTS 301 THROUGH 322 IN CEDAR CROSSING II FIRST RESUBDIVISION BEING A RESUBDIVISION OF PART OF SECTIONS 3 AND 4, TOWNSHIP 45 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, LAKE COUNTY, ILLINOIS.

Section 1.03. "Townhome Dwelling Unit" shall mean a residential housing unit as part of a building containing one (1) or more such Dwelling units, consisting of a group of rooms which are designed or intended for the exclusive use as living quarters for one (1) family, as hereinafter defined, as constructed by the Declarant upon the Property.

Section 1.04. "Townhome Building" or "Building" shall mean a building containing one or more Townhome Dwelling Units having a common roof and common exterior features.

Section 1.05. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is part of the Property, including contract

sellers, but excluding those having such interest merely as security for the performance of an obligation.

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

Section 1.07. "Declarant" shall mean and refer to Buschman Development, Inc., its successors and assigns, if such successors and assigns are designated in a recorded assignment as successor developers.

Section 1.08. "Lot", for the purposes of this Declaration, shall mean and refer to a planned townhome lot designated as such upon any recorded subdivision map of the Property, and upon which lot, one (1) individual townhome or Townhome Dwelling Unit is constructed or to be constructed, or any unplatted lot designated for a single Townhome Dwelling Unit by Declarant.

Section 1.09. "Board" shall mean the Board of Directors of the Association as constituted at any time or from time to time in accordance with the applicable provision of Article III.

Section 1.10. "Community Association" shall mean THE TOWNHOMES OF CEDAR CROSSING II, an Illinois not-for-profit corporation, of which each Owner is a member.

Section 1.11. "Occupant" shall mean any person or persons, other than the Owner or tenant, in possession of a Townhome Dwelling Unit.

Section 1.12. "Family" shall mean one (1) or more persons, each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related,

together with his or their domestic servants, maintaining a common household in a Townhome Dwelling Unit.

Section 1.13. "By-Laws" shall mean the By-Laws of The Townhomes of Cedar Crossing II Association, a copy of which is attached hereto as Exhibit "A" and by this reference made a part hereof.

Section 1.14. "Developer" shall mean Buschman Development, Inc. or their designated successors and assigns.

Section 1.15. "Village" shall mean and refer to the Village of Lake Villa, Illinois, a municipal corporation, its elected and appointed officials, officers, agents and employees.

## ARTICLE II

### Membership

Section 2.01. Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one (1) membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification of membership. Nothing herein contained shall be interpreted to exclude Declarant from membership while it or its successors in interest, if any, owns one (1) or more Lots. Voting rights with

regard to each member are set forth in Article III of the By-Laws in Exhibit "A".

### ARTICLE III

#### Voting Rights and Board of Directors

Section 3.01. The Association shall have two (2) classes of voting membership:

Class A: Class A Members shall be all those Owners as defined in Article II, with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Article II. When more than one (1) person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be case with respect to any Lot.

Class B: The Class B members shall be the Declarant or its designated successors and assigns. The Class B members shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article II; provided, that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding the Class B membership; or
- (b) Three (3) years from the date of the recording of the Declaration.

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

Section 3.03. The Association shall have a Board of not less than three (3) Directors who shall be elected by the members of the Association at such intervals as the By-Laws of the Association shall provide, except that vacancies in the Board occurring between regularly scheduled meetings of the members may be filled by the Board of Directors. The Declarant shall appoint members to the Board of Directors until seventy-five percent (75%) of the Townhome Dwelling Units are conveyed to Owners other than Declarant or three (3) years from the recording of Declaration whichever is first to occur. The Association shall have such officers as shall be appropriate from time to time who shall be elected by the Board who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly otherwise provided by the By-Laws, all power and authority to act on behalf of the Association, both pursuant to this Declaration and otherwise, shall be vested in its Board from time to time and its officers under the direction of the Board and shall not be subject to any requirement of approval on the part of its members. The By-Laws of the Association may include such provisions for the protection and indemnification of its officers and Directors as shall be permissible by law.

#### ARTICLE IV

##### Party Wall Provisions

Section 4.01. All dividing walls which are placed on the boundary line between Townhome Dwelling Units (as that term is hereinabove defined) and all walls which serve two (2) or more

Townhome Dwelling Units shall at all times be considered party walls. Consistent with Article VII, Paragraph 7.02, the cost of reasonable maintenance, repair or replacement of said party walls shall be borne equally by the Owners of the Townhome Dwelling Units served thereby, and easements for the benefit of such uses among the Owners are hereby granted therefor.

Section 4.02. If a party wall is destroyed or damaged by fire or other casualty, any Owners who have used the wall shall restore it and contribute to the cost or restoration in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or wilful acts or omissions.

Section 4.03. Notwithstanding any other provision of this Declaration, an Owner who by his negligence or wilful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 4.04. Consistent with Article VII, paragraph 7.02, the Owner or Owners of each Townhome Dwelling Unit shall be responsible for the maintenance, repair or replacement of that portion of the common roof, gutter and downspout water drainage system as is located, installed upon or attached to such Townhome Dwelling Unit.

Section 4.05. The right of any Owner to contribution from any other Owner under any of the sections as hereinabove set forth shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 4.06. Any and all facilities of any kind presently existing or hereafter installed, designed for the common use of any two (2) or more Townhome Dwelling Units, shall be perpetually used in common by the Owners or occupants thereof.

Section 4.07. The Owners hereby grant to each other, their grantees and their respective heirs, successors, personal representatives or assigns all easements contained in the sections as hereinabove set forth, including, but not limited to, easements for party walls, support and maintenance, along with the restrictions, covenants, burdens, uses and privileges attendant with said easements.

Section 4.08. All easements, restrictions and covenants herein described shall run with the land; they shall at all times inure to the benefit of and be binding on the undersigned, all their grantees and their respective heirs, successors, personal representatives or assigns, perpetually in full force and effect.

Section 4.09. As to future townhome Owners and others having an interest in the Townhome Property, reference in the respective deeds of conveyance, or in any mortgage or trust deeds or other evidence of obligation to the easements, restrictions and covenants herein described, shall be sufficient to create and reserve such easements, restrictions and covenants to the respective grantees, mortgagees or trustees of said parcels as fully and completely as though said easements, restrictions and covenants were fully recited and set forth in their entirety in such documents.



## ARTICLE V

### Maintenance

Section 5.01. The Association shall determine and carry out or cause to be performed maintenance as to the landscaping on the Lots. In the event that the need for maintenance or repair is caused through the wilful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject. The Association shall have the right to come along and upon each Lot and Townhome Dwelling Unit and shall be responsible for the exterior maintenance. Repairs necessitated as a result of a casualty loss shall be paid by the Owner or their insurance carrier. In the event an Owner shall cause damage to the exterior of a Townhome Dwelling Unit (including roofs and siding) through the willful or negligent act of the Owner, his family, guests or invitees, the Association has the right, through its agents and employees, to repair and replace said exterior improvements and the cost thereof shall become a lien upon the Lot and be added to and become part of the assessment to which such said Townhome Dwelling Unit and Lot is subject in the same manner of all assessments due the Association as provided hereinafter in Article VI.

Section 5.02. The Association is granted an irrevocable license and easement by the Village in and to the parking and landscaped "islands" located within cul-de-sac streets and shall maintain, repair and replace the parking and landscaped "islands"

located within cul-de-sac streets subject to criteria as set by the Village from time to time.

Section 5.03. Each Owner shall have the obligation to maintain in good condition and repair the interior of his Townhome Dwelling Unit and patio on his Lot, and his portion of any party wall located in his Lot, except for damage to said party wall occasioned by the act or omission of the Owner of the adjacent Townhome Dwelling Unit, which damage shall be repaired by said Owner. Upon the failure of any Owner to maintain his Lot in a manner satisfactory to the Association, the Association, through its agents and employees, is hereby granted the right to enter upon the Lot and make such reasonable repairs, maintenance, rehabilitation or restoration of the Premises as may be necessary, and the costs thereof shall become a lien upon the Lot in the same manner provided hereinafter in Article VI hereof for nonpayment of maintenance assessments.

Section 5.04. The Association shall provide for the maintenance of all plantings on the Lots which has been planted by the Declarant in the sale of the Lot. No plantings can be installed by an Owner without the written approval of the Board of Directors.

Section 5.05. An irrevocable license and easement is hereby granted to the Village and Police, Fire, Water, Health Departments and other authorized officials, employees and vehicles of the Village, to go upon the Lots at any time and from time to time for the purpose of performance of official duties and for the purpose

of enforcing this Declaration and all Village Ordinances, Rules and Regulations, and the Statutes of the State of Illinois and the United States. The Village shall be under no obligation to exercise the rights granted in this Declaration except as it shall determine to be in its best interest. No failure to exercise any right granted in this Declaration to the Village shall be construed as a waiver of that or any other rights. The Village may perform such maintenance or repairs to the Common Area upon the failure of the Association to do so after having given thirty (30) days notice and the Association having filed to cure. Notice shall not be required in the event the Village determines that the failure of maintenance constitutes an immediate threat to public health, safety and welfare. If the Village is required to perform such service, it shall be entitled to complete reimbursement by the Association.

#### ARTICLE VI

##### Covenant for Maintenance Assessments

Section 6.01. The Declarant, for each Lot owner within the Property, hereby covenants and each Owner of any Lot, by acceptance of a deed or other conveyance, is deemed to covenant and agree to pay to the Association Annual assessments or charges. The annual assessments, together with such interest thereon, and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Property against which each such assessment is made. Each such assessment, together with such interests, costs and reasonable attorneys' fees, shall

also be the personal obligation of the person who was the Owner of such Property at the time when the assessment fell due.

Section 6.02. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in the Property, and in particular, for the improvement and maintenance of the Property, services and facilities devoted to this purpose and related to the use and enjoyment of the Townhomes situated upon the Property. Such uses may include, but are not limited to, the cost of the Association for the maintenance of the exteriors of the Lots and Townhome Dwelling Units as may from time to time be authorized by the Board and other facilities and activities, including, but not limited to, repair of siding, roofs, driveways and sidewalks, mowing grass, caring for the grounds, landscaping, equipment, if any, perimeter fencing, if any, and other charges required by this Declaration of Covenants, Conditions, Restrictions and Easements or that the Board shall determine to be necessary or desirable to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair.

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

Section 6.04. Annual assessments must be fixed at a uniform rate for all Lots, except for certain Lots as provided in Section 6.09 and shall be collected on a monthly basis.

Section 6.05. The annual assessments provided for herein shall commence for all Lots within the Property on the first day of the month following the conveyance of the first Lot, except as otherwise provided in Section 6.09 hereof. The Board 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.

Section 6.06. Written notice of any change in the amount of the annual assessment shall be due on the first day of each month. An Owner shall first be liable for payment of the full monthly assessment on the first day of the month following conveyance of title to him. This payment shall be in addition to the prorated portion of the monthly assessment which Owner shall pay as of the date title is conveyed. The Association shall, upon demand at any time, upon reasonable notice, furnish a certificate in writing signed by an officer or agent of this Association setting forth whether the assessments on a specified Lot have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein.

Section 6.07. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest or a late charge from the date of delinquency at the rate allowed by law and the Association may bring an action at law against the Owner personally obligated to pay same or foreclose the lien

against the Property; and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure, by an action brought in the name of the Association, in a like manner as a mortgage or deed of trust lien on real property, except that the court shall restrain the defaulting Owner from reacquiring his interest at such judicial sale. In the event of any default of any Owner, the Association may and shall have the right and remedy as shall otherwise be provided or permitted by law, including the right to take possession of such Owner's interest and Lot for the benefit of all other Owners, by an action for possession in the manner prescribed in the Forcible Entry and Detainer Act.

Section 6.08. The lien of the assessments provided for herein shall be subordinate to the lien of any prior first mortgage or trust deed. Sale or transfer of any Lot shall not affect the assessment lien unless so provided as a result of a judicial sale pursuant to a decree of foreclosure.

Section 6.09. With regard to any Lots upon which Townhome Dwelling Units are being constructed and title has not been conveyed by Declarant, the assessment respecting each such Lot shall be limited to the aggregate amount of actual operating

expenses from time to time required to be paid with respect to such Lot. Actual operating expenses shall mean those ordinary expenses attributable only to the period in question covering the maintenance and operation of the Property and shall not include amounts set aside as a reserve for contingencies or replacements, prepaid items or inventory items to the extent attributable to subsequent periods.

Section 6.10. Each Owner shall also have a membership interest in the Master Declaration of Covenants, Conditions, Restrictions and Easements for Cedar Crossing II ("Master Declaration"), and all of the covenants, conditions, restrictions and easements in the Master Declaration are incorporated by reference and made a part of this Declaration.

## ARTICLE VII

### Insurance

Section 7.01. The Association shall be responsible for maintaining comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and other liability insurance as it may deem desirable, insuring the Association, its officers, members of the Board, the manager and managing agent of the Property, if any, and their respective employees and agents from liability in connection with the maintenance obligations set forth herein, and insuring the officers of the Association and members of the Board from liability for good faith actions beyond the scope of their respective authorities.

Section 7.02. Each Owner shall maintain in full force at all times insurance covering his Townhome Dwelling Unit consisting of, or providing all the protections afforded by, the insurance now generally described as fire, extended coverage, additional extended coverage, vandalism and malicious mischief to one hundred percent (100%) of the full insurable value thereof with loss payable on the basis of the cost of replacement without deduction for depreciation. In the event the Townhome Dwelling Unit, or any portion thereof, shall be damaged or destroyed by fire or other casualty, including any exterior portions of an Owner's Unit or Lot, the Owner shall cause it to be repaired, restored or rebuilt, as the case may be, as rapidly as possible, to at least as good as condition as existed immediately prior to such damage or destruction and in the same architectural style and design as originally constructed by the Declaration (or with any charges as approved by the Architectural Control Committee.) The Association shall be entitled to the proceeds of any such insurance claim to the extent of any monies expended by it for the repair of any Townhome Dwelling Unit.

#### ARTICLE VIII

##### Interim Procedure

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



Section 8.02. Until the Association shall have been organized and shall have assumed its duties and powers, the Developer shall have all the rights, powers, duties and obligations herein granted to or imposed upon the Association and shall be authorized and empowered to take all such actions as the Board would have been authorized and empowered to take if the Association had then been formed. Alternatively, until the initial meeting of the members, the Developer may appoint the Board which shall have the same powers and authority as given to the Board generally.

#### ARTICLE IX

##### Restrictions Relating to Property

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

Section 9.02. Other than the structures contemplated and intended to be erected or constructed upon the said Townhome Property described and designated, or identical structures erected in replacement thereof, no exterior alterations or structures, including landscaping, entrances or additions or additional buildings, awnings, coverings or the like shall be built upon any portion of the hereinabove described parcels without the consent of the Board of the Association.

Section 9.03. All Townhome Dwelling Units shall maintain the same architectural exterior design and color unless three-fourths (3/4) of all Owners agree in writing to change said exterior design

and/or color. In addition, the consent of Declarant shall be required as long as Declarant owns any Townhome Dwelling Unit.

Section 9.04. The Lots shall be used only for residential purposes as a private residence, and no professional business or commercial use shall be made of same, or any portion thereof, or resident's use of a Lot endanger the health or disturb the reasonable enjoyment of any other Owner or resident.

Section 9.05. Except as hereinafter provided in Section 9.08 hereof, no structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used as a residence at any time, either temporarily or permanently. No above ground or countersunk above ground pools are allowed.

Section 9.06. No advertising sign (except one (1) "For Rent" or "For Sale" sign of not more than five (5) square feet per Townhome Dwelling Unit), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Townhome Dwelling Unit or Lot.

Section 9.07. The foregoing covenants of this Article IX shall not apply to the activities of Developer. The Developer may maintain, while engaged in constructing and selling activities in or upon such portions of the Property as said Developer determines, such temporary facilities as, in its sole discretion, may be necessary or convenient, including, but without limitation, offices, storage areas, model units, signs and construction trailers.

Section 9.08. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats, or other common household pets (not to exceed a total of three (3) pets); provided, that they are not kept, bred or maintained for any commercial purposes.

Section 9.09. All rubbish, trash or garbage shall be kept so as not to be seen from neighboring Townhome Dwelling Units and streets and shall be regularly removed from the Property and shall not be allowed to accumulate thereon.

Section 9.10. Drying of clothes shall be confined to the interior of the Townhome Dwelling Unit.

Section 9.11. Without prior written authorization of the Board, no television or radio antennas of any sort shall be placed, allowed or maintained on the exterior of any Townhome Dwelling Unit, or any portion of the exterior of the improvements located on the Property, nor upon any structure situated upon the Property.

Section 9.12. An Owner shall do no act nor any work that will impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other properties or their owners.

Section 9.13. No nuisance, noxious or offensive activity shall be carried on nor shall anything be done, either wilfully or negligently, which may be or become an annoyance or nuisance to the Owners or occupants of the Townhome Dwelling Unit.

Section 9.14. Each Lot is hereby declared to be subject to an easement and right to and in favor of the Association, each and all

of their employees, agents, and instrumentalities to go upon such Lot for reasonable inspection thereof from time to time and for the purpose of carrying out any and all of the obligations and functions with respect to such Lot and the Townhome Dwelling Unit located thereon as are herein imposed upon or permitted to said Associations. Each Lot is further declared to be subject to an easement in favor of any adjoining Lot to the extent necessary to permit ingress and egress to and from said adjoining Lot, and to permit the maintenance, supply, repair and servicing of utility services to the various Lots and Townhome Dwelling Units located thereon.

Section 9.15. The Owner of each Lot shall, from time to time, grant such additional easements and rights over, across, on, under and upon his Lot as may be reasonably necessary in connection with the supply of any utilities required to service any part of the Property.

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

Section 9.17. Each Lot is hereby subjected to a permanent easement appurtenant to each adjoining Lot to permit the construction, existence, maintenance and repair of structures located on such adjoining Lot, including roof structures which extend upon another Lot; provided, that the construction of such structure is permitted and approved as elsewhere herein provided.

ARTICLE X

Miscellaneous

Section 10.01. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, easements, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Any Owner found to be in violation by a Court of competent jurisdiction of any of the foregoing shall also be liable for reasonable attorneys' fees incurred by the Association in prosecuting such action. The amount of such attorneys' fees, together with court costs if unpaid, shall constitute an additional lien against the defaulting Owner's Lot enforceable as other liens herein established. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 10.02. Invalidation of any one (1) of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 10.03. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, the Owner or any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years subject to amendment as hereinafter set

forth. The covenants and restrictions of this Declaration may be amended by an instrument signed by those Class A members entitled to cast seventy-five percent (75%) of the total votes as provided in Article III, Section 3.01 hereof, and by all Class B members, if any, and then properly recorded. These Covenants and Restrictions cannot be amended without the prior written consent of the Village which shall not be unreasonably withheld or delayed. Any instrument executed pursuant to the provisions contained herein shall be filed for record in the Office of the Recorder of Deeds of Lake County, Illinois and a true, complete copy of such instrument shall be transmitted to each Owner promptly.

Section 10.04. If and to the extent that any of the covenants would otherwise be unlawful or void for violation of:

- (a) The rule against perpetuities;
- (b) The rule restricting restraints or alienation; or
- (c) Any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid;

then the provision concerned shall continue and endure only until the expiration of a period of twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of William Clinton, the President of the United States, living at the date of this Declaration.

Section 10.05. Any notices required to be sent to any member of the Association or to an Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such member or Owner

as it appears on the records of the Association at the time of such mailing.

Section 10.06. All the easements, rights, covenants, agreements, reservations, restrictions and conditions herein contained shall run with the land and shall inure to the benefit of and be binding upon Declarant and each subsequent holder of any interest in any portion of the Property and their grantees, heirs, successors, personal representatives and assigns with the full force and effect for all purposes as though set forth at length in each and every conveyance of the Property, or any part thereof. Reference in the respective deeds of conveyance, in any mortgage or trust deed or other evidence of obligation to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of such parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

Section 10.07. Notwithstanding anything in the Declaration to the contrary, the provisions of Section 10.03, dealing with the method of amending the Declaration, and Section 6.08, which expressly subordinates the lien of the Association for unpaid assessment to the lien of any first mortgage on any Lot, no amendment to change or modify these Sections shall be effective unless such change or modification shall be first consented to in writing by the mortgagee of record of such Lot.

Section 10.08. In the event that any part of any Townhome Dwelling Unit encroaches or shall hereafter encroach upon any part of any other Lot or Common Area, valid easements for the maintenance of such encroachments are hereby established and shall exist so long as all or any part of same shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Townhome Dwelling Unit of another Owner and if it occurred due to the wilful conduct of any Owner.

Section 10.09. Notwithstanding anything herein to the contrary, any portions of the Property which are owned by the Village, from time to time, shall not be subject to the provisions of this Declaration while so owned by the Village.

IN WITNESS WHEREOF, the Declarant, Successor Trustee and the Owners have hereunto caused their names to be signed to these present this 3rd day of September, 1999.

DECLARANT: BUSCHMAN DEVELOPMENT, INC.

By: [Signature]  
Its Vice President

ATTEST:

By: [Signature]  
Its Assistant Sec.

THIS DOCUMENT PREPARED BY: ANDRE MARR, JR.

MOSS AND BLOOMBERG, LTD.  
305 W. Briarcliff Road  
Bolingbrook, IL 60440  
(630) 759-0800

70193.1



EXHIBIT "A"

By-Laws of

The Declaration of Covenants, Conditions,  
restrictions and easements for  
The Townhomes of Cedar Crossing II Association

ARTICLE I

Purposes and Powers

Section 1.01. The Association shall be responsible for the general management and supervision of the Property and shall have all of the powers to perform and shall be responsible to perform all of the obligations provided in the Declaration. Further, the Association shall have all powers now or hereafter granted by the General Not-for-Profit Corporation Act of the State of Illinois which shall be consistent with the purposes specified herein and in the Declaration.

ARTICLE II

Offices

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

Section 2.02. Principal Office. The principal office of the Association shall be maintained in Lake Villa, Illinois.

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## ARTICLE III

### Membership

Section 3.01. Voting Members. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association shall be a member of the Association (herein referred to as "Voting Member"). The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to an assessment by the Association. Ownership of such Lot shall be the sole qualification of membership. Nothing herein contained shall be interpreted to exclude Declarant from membership while it or its successors in interest, if any, owns one or more Lots. Voting rights with regard to each Voting Member are set forth in Section 3.02 hereof.

Section 3.02. Classes of Membership. The Association shall have two (2) classes of voting membership:

CLASS A: Class A members shall be all those owners as defined in Section 3.01, with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 3.01. When more than one (1) person holds such interest in any Lot, all such persons should be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

CLASS B: The Class B member shall be the Developer or its designated successors and assigns. The Class B member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Section 3.01; provided, that the Class B membership shall

cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

(b) Three (3) years from the date of the recording of the Declaration.

Section 3.03. Meetings.

(a) Quorum and Procedure. Meetings of the Voting Members shall be held at the principal office of the Association or at such other place in Lake County, Illinois as may be designated in any notice of a meeting. The presence at any meeting, in person or by proxy, of at least twenty percent (20%) of the total votes determined pursuant to Section 3.02 above shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Voting Members at which a quorum is present upon the affirmative vote of the Voting Members having a majority of the total votes present at such meeting. Any Voting Member in writing may waive notice of a meeting or consent to any action of the Association without a meeting.

(b) Initial and Annual Meeting. The initial meeting of the Voting Members shall be held at such time as may be designated upon not less than five (5) days or more than forty (40) days written notice given by the Declarant or its beneficiary. Thereafter, there shall be an annual meeting of the Voting Members on the first Tuesday of April of each succeeding year at 7:30 p.m. If the date for the annual meeting of Voting Members is a legal holiday, the meeting will be held at the same hour on the first day next succeeding such date which is not a legal holiday.

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

Section 3.04. Notices of Meetings. Notices of all meetings required to be given herein shall be not less than five (5) days nor more than forty (40) days and shall be delivered

either personally or by mail to the persons entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice or to the Dwelling Unit of the Owner with respect to which such voting right appertains if no address has been given to the Board.

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

#### ARTICLE IV

##### Board of Directors

Section 4.01. Board of Directors. The direction and administration of the Property in accordance with the provisions of the Declaration shall be vested in the Board of Directors, consisting of three (3) persons who shall be elected in the manner as hereinafter provided. The Voting Members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease the number and term of the office of the Board members at any annual meeting; provided, that such number shall not be less than three (3). Each member of the Board, with the exception of any Board members appointed by the Declarant (or its beneficiary or designee), shall be one of the Owners (including the Declarant); provided, however, that in the event an Owner is a corporation, partnership, trust or other legal entity other than a natural

person or persons, then, any director or officer of such corporation, partner of such partnership, individual trustee or beneficiary of such trust, or agent or employee of a beneficiary of such trust, or manager of such legal entity shall be eligible to serve as a member of the Board.

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

Section 4.03. Election of Board Members. At the initial meeting of the Voting Members and at all subsequent annual meetings of the Voting Members, there shall be elected a Board of Directors. In all elections for members of the Board of Directors, each Voting Member shall be entitled to vote on a cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. Three (3) Board Members shall be elected at the initial meeting. The two (2) persons receiving the highest number of votes at the initial meeting shall be elected to the Board for a term of two (2) years and the next person receiving the highest number of votes shall be elected for a term of one (1) year. Upon the expiration of the terms of office of the Board Members so elected at the initial meeting and thereafter, successors shall be elected for a term of two (2) years each. Notwithstanding the aforesaid

election procedure, the Declarant or its designee or beneficiary may appoint a Board which shall have the same powers and authority as given to the Board generally, as provided hereinafter, and such appointed Board shall function until such time as the initial meeting of the Voting Members is held.

Section 4.04. Compensation. Members of the Board shall receive no compensation for their services, however, any director may be reimbursed for reasonable expenses incurred in the performance of his duties.

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

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

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

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

Section 4.09. Execution of Investments. All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, or agent or agents, of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the President and countersigned by the Secretary.

## ARTICLE V

### Power to the Board

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

(a) To elect the officers of the Association as hereinabove provided.

(b) To administer the affairs of the Association and the Property.

(c) Subject to Section 5.02 below, to engage the services of a manager or managing agent who shall manage and operate the Property.

(d) To formulate policies for the administration, management and operation of the Property.

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

(f) To provide for the maintenance, repair and replacement of exterior of Dwelling Units, and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or managing agent.



(g) To provide for the designation, hiring and removal of employees and other personnel, including accountants and legal counsel, and to engage or contract for the services of others and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and to delegate any such powers to the manager or managing agent (and any such employee or other personnel as may be the employees of the managing agent.)

(h) To estimate the amount of the annual budget and to provide the manner of assessing and collecting from the Owners of such Lots which have been occupied for residential purposes their respective shares of such estimated expenses, as hereinafter provided.

(i) To exercise all other powers and duties vested in or delegated to the Association and not specifically reserved to the Voting Members by the Articles of Incorporation, the Declaration or these By-Laws.

Section 5.02. Rules and Regulations: Management.

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

(b) Management. The Declarant, trust beneficiaries or the Board shall engage the initial management organization under contracts expiring not later than ninety (90) days after the date the initial meeting of Voting Members is held. Thereafter, the Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board.

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

Section 5.03 Liability of the Board of Managers. The

members of the Board and the officers of the Association shall not be personally liable to the Owners or others for any mistake or

judgment, or for any acts or omissions made in good faith by such officers or Board Members. The Owners shall indemnify and hold harmless each of the members of the Board and each of the officers against all contractual liability to others arising out of contracts made by the Board of Directors or officers on behalf of the Owners unless such contract shall have been made in bad faith or contrary to the provisions of the Declaration.

## ARTICLE VI

### Assessments - Maintenance Fund

Section 6.01. Preparation of Estimated Budget. Each year, on or before November 1, the Board will estimate the total amount necessary to pay the cost of wages, materials, taxes, insurance, services and supplies which will be required during the ensuing fiscal year (January 1-December 31) for the rendering of all services authorized by the Board, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements and shall, on or before November 15, notify each Owner in writing as to the amount of such estimate ("Estimated Cash Requirement") with reasonable itemization thereof. The Estimated Cash Requirement shall be assessed equally among all of the Owners, other than the Declarant. On or before January 1 of the ensuing fiscal year and the first of each and every month of said year, each Owner, other than Declarant, shall be obligated to pay to the Board, or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this Section. On or before the date of the annual meeting of each calendar year, the Board shall supply to

all Owners an itemized accounting of the maintenance expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected from the Owners, pursuant to assessments made during such year (including amounts collected from the Declarant) and showing the next amount over or short of the actual expenditures, plus reserves. The Board shall, upon demand at any time, with reasonable notice, furnish a certificate in writing signed by an officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein.

Section 6.02. Extraordinary Expenditures. The Board shall build up and maintain a reasonable reserve for authorized capital expenditures, contingencies and replacements ("Extraordinary Expenditures") not originally included in the annual estimate. Extraordinary Expenditures which may become necessary during the year shall be charged first against such reserve. If such reserve proves inadequate for any reason, including non-payment of any Owner's assessment, the Board may at any time levy a further assessment which shall be divided pro rate among the remaining installments for such fiscal year and assessed equally among the Owners, other than the Declarant. The Board shall serve notice of further assessment on all such Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of

such notice of further assessment. All such Owners shall be obligated to pay the adjusted monthly amount.

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

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

after such new annual or adjusted estimate shall have been mailed or delivered.

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

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

Section 6.07. Remedies for Failure to Pay Assessments. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest or late charges from the due date at the highest rate allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay same or foreclose the lien against the Property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. To the extent permitted by any decision of any statute or law now or hereafter effective, the amount of any delinquent or unpaid charges or assessments and interest, costs and fees as above provided shall be and become a lien or charge against the Lot of the Owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. Unless otherwise provided in the Declaration, the members of the Board and their successors in office acting on behalf of the other Owners, shall have the power to bid in the interest so foreclosed at a foreclosure sale and to acquire and hold, lease, mortgage and convey same. Any court shall be authorized to restrain the defaulting Owner from reacquiring his interest at such foreclosure sale.

Section 6.08. Forcible Entry and Detainer. In addition to the rights and remedies set forth in Section 6.07, if any Owner shall default in the payment when same shall be due of the aforesaid charges or assessments and said default shall continue

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for thirty (30) days after notice to said Owner by the Board setting forth the amount of unpaid charges or assessments, together with a demand for payment thereof, the Board shall have the right to declare said default a Forcible Detainer of the Townhome Dwelling Unit and shall have the right, on behalf of the other owners, to enter and take possession of the Townhome Dwelling Unit from said defaulting Owner in order to put out the Owner or any occupant or tenant claiming by, through or under the Owner, using such reasonable force as the Board shall deem necessary under circumstances and to exercise any of the rights and remedies set forth in the Forcible Entry and Detainer Act, Chapter 57, Illinois Revised Statutes.

#### ARTICLE VII

##### Interim Procedure

Section 7.01. Until the initial meeting of the Voting Members, the Declarant (or its beneficiary or designee) may appoint the Board which shall have the same powers and authority as given to the Board generally.

#### ARTICLE VIII

##### Amendments

Section 8.01. These By-Laws may be amended or modified from time to time by action or approval of the Class A Voting Members entitled to cast three-fourths (3/4) of the total votes computes as provided in Section 3.02 and by all Class B members, if any. Such

amendments shall be recorded in the Office of the Recorder of Deeds of Lake County, Illinois.

#### ARTICLE IX

##### Interpretation

Section 9.01. In the case of any conflict between the Articles of Incorporation of the Association and these By-Laws, the Articles of Incorporation shall control and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

#### ARTICLE X

##### Definition of Term

Section 10.01. The terms used in these By-Laws shall have the same definition as set forth in the Declaration to the extent such terms are defined herein.

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