

ByLaws

ARTICLE I: Interpretation, Definitions, and Incorporation of “Restrictive Covenant” & “Encumbrance Agreement”

1.01

These Bylaws shall be construed with reference to the provisions of The Societies Act, R.S.A. 1980, c. S-18, as amended from time to time (or any subsequent governing legislation), and terms used in these Bylaws shall be taken as having the same respective meanings as they have when used in that Act. Notwithstanding anything else herein contained, these Bylaws shall be read subject to the restrictions upon their scope and effect contained in The Societies Act and other applicable statutes and rules of law and equity, and any provisions herein repugnant to such restrictions shall, wherever possible, be severed from these Bylaws, in order that the rest may stand.

1.02

In the interpretation of these Bylaws (including this Article 1.02), except where excluded by the context,

- a. words importing the singular number shall also include the plural, and vice-versa;
- b. words importing the masculine gender shall also include the feminine;
- c. words importing persons shall include corporations;
- d. the headings herein are given for convenience only, and shall not affect the interpretation of these Bylaws;
- e. these Bylaws shall be interpreted in a large and liberal sense so as to give effect thereto wherever possible;
- f. 'Act' shall mean the Societies Act R.S.A. 1980, c. S-18 as amended, and any statute that may be substituted therefore;
- g. 'Association' shall mean the Eagle Ridge Homeowners Association.
- h. 'the Board' means the Board of Directors of the Association;
- i. 'Melcor' means Melcor Developments Ltd.;
- j. 'By-laws' shall mean the By-laws of the Association as amended from time to time;
- k. 'Developer' means Melcor, Desa Stores Ltd. and Columbus Investment Corp. Ltd.;
- l. 'Director' shall mean any person who has been duly elected or appointed to the Board of Directors by whatever name called;
- m. 'Member' shall mean a member of the Association unless the context requires otherwise;
- n. 'Registered Office' shall mean the registered office for the Association;
- o. 'Restrictive Covenant' and "Schedule "A"" shall each mean the Restrictive Covenant and Encumbrance Agreement, a true copy of which is annexed hereto as Schedule "A";

1.03

These By-laws are subject to and to be construed with the Restrictive Covenant, which governs in the event of any conflict with these By-laws. The purpose and objects of the Association are to carry out the duties and functions provided for in Schedule "A" to be performed or done by the Association and generally to provide for care and maintenance of Subdivision Features in the Eagle Ridge Subdivision as defined in Schedule "A".

ARTICLE II: Members of the Society and Voting Rights

2.01

Article 3.1 in Schedule "A" are incorporated into these By-laws and are made a part

hereof. Without limitation:

- a. The Members of the Association shall be those entitled to membership under said Article 3.1 paragraphs 3.1.1 and 3.1.3; provided that until the Developer shall have sold one hundred (100) of the Subdivided Lots (as defined in Schedule "A"), the five signatories to the application for incorporation of the Association and substitutions therefore (if any) made by Melcor shall, notwithstanding Schedule "A", and notwithstanding anything herein contained, be and continue to be members whether or not they own any interest in any Subdivided Lots. Such signatories shall only cease to be members when the Developers have sold and transferred at least one hundred (100) Subdivided Lots. Save for the said 5 signatories and substitutions therefore, ownership (which may be beneficial ownership) in fee simple of a Subdivided Lot, or a fractional or joint tenant interest therein, is a prerequisite to membership in the Association. No one (save for the said five signatories or other representatives of Melcor appointed hereunder) who is not an owner in fee simple as aforesaid shall be eligible for membership; and everyone who has been but ceases to be such a owner shall ipso facto cease to be a Member. An owner shall be entitled to become a Member forthwith on becoming registered (which may include registration by caveat) as an owner as aforesaid, and his membership shall be recorded by the Secretary upon his providing to the Association's Board satisfactory evidence of such ownership, or the Board otherwise being satisfied of such ownership.
- b. Voting rights shall be as set out in said Article 3.1, paragraph 3.1.2 in Schedule "A".
- c. No owner shall be expelled from the Association as long as he continues to be a registered owner.

2.02

Membership Year

Membership year shall be from January 1, to December 31, of each year.

2.03

Notice of Meeting

A Member shall be entitled to notice of and to attend at all meetings of the Members of the Association. Where two or more persons own a Subdivided Lot, a notice given to one such owner shall be deemed to have been given to all such owners.

ARTICLE III: Meetings of the Association

3.01

The Annual General Meeting

- a. An Annual General Meeting of the Association shall be held in each calendar year after 1992 in the City of Edmonton, in the Province of Alberta, on a day to be fixed by the Board from time to time;
- b. At least fourteen (14) days prior to the Annual General Meeting the Secretary shall give to each Member a notice setting forth the date, place and time of the Annual General Meeting;
- c. The Annual General Meeting shall consider the report of the President, review of financial statements, (which shall set out the Association's income, disbursements, assets and liabilities, and shall comply with the requirements of the Societies Act), appoint such auditors or accountants as may be desired, elect the Board, and transact such other business as may be put before the meeting;
- d. A quorum for the Annual General Meeting of the Association shall be the attendance

- of persons collectively entitled to cast five (5) or more votes;
- e. Unless any two Members demand a ballot vote, all voting at the Annual General Meeting shall be done by a show of hands;
 - f. Each Member may vote by proxy. Such proxy should himself be a Member of the Association or an officer or employee of a corporate member, but before voting must produce and deposit with the Secretary a sufficient appointment in writing. The Secretary, or in his absence the Chairman of the meeting, shall have complete discretion to determine whether an appointment or proxy is valid and sufficient;
 - g. Except as to a Special Resolution, each issue and Resolution shall be decided by a majority of the votes of the Members present or in person or represented by a proxy;
 - h. Accidental omission to give any notice to any Member or the non-receipt of any notice by any Member or any error in any notice not affecting the substance thereof shall not invalidate any action taken at a meeting held pursuant to such notice or otherwise founded thereon; and
 - i. At the Annual General Meeting there shall be elected as many Directors as shall be required to fill the vacancies of the Board.

3.02

Special Meetings of the Association

- a. Special meetings of the Association shall be called at the direction of the President or upon request in writing of any fifteen (15) Members in good standing, setting the object of the special meeting;
- b. At least fourteen (14) days prior (and if a Special Resolution is proposed at least twenty-one (21) days prior) to the special meeting, the Secretary shall mail or deliver to each Member a notice setting forth the date, place, time and purpose of the special meeting;
- c. The method of voting, the use of proxies and the quorum required for any special meeting shall be the same as for the Annual General Meetings;
- d. Accidental omission to give any notice to any Member or the non-receipt of any notice by any Member or any error in any notice not affecting the substance thereof shall not invalidate any action taken at a meeting held pursuant to such notice or otherwise founded thereon.

3.03

Proceedings at General Meetings

- a. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of the Members, shall be dissolved, but in every other case it shall stand adjourned to the same day in the following week at the same time and place;
- b. The President, or in his absence, a Vice-President, shall preside at every general meeting of the Society. If neither the President nor a Vice-President be present within a half an hour from the time appointed for the holding of the meeting, the Members present shall choose one of the Members to preside at such meeting;
- c. The person presiding may, with the consent of the meeting, adjourn any meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business unfinished at the meeting from which the adjournment took place;

- d. At every general meeting every question shall be decided in the first instance by a show of hands, unless before or upon the declaration of the result of the show of hands, a ballot be demanded by at least two (2) Members personally present and entitled to vote. A declaration by the person presiding that a resolution has been carried or carried by a particular majority, or lost, shall be conclusive evidence thereof, without proof of the number or proportion of the votes recorded in favour or against any such resolution. If a ballot be demanded in the manner above mentioned, it shall be taken at such time and place and in such manner as the person presiding may direct, and the result of the ballot shall be deemed to be the resolution of the general meeting at which the ballot was demanded. A demand for a ballot may be withdrawn;
- e. In case of any dispute as to the admission or rejection of any vote, the person presiding shall determine the same, and such determination made in good faith shall be final and conclusive;
- f. Notwithstanding anything to the contrary in these By-laws a resolution assented to and adopted in writing under the hands of sixty-five (65%) percent of all the Members entitled to vote thereon, though not passed at a General Meeting, shall be of the same force and effect as if it had been duly passed at a General Meeting duly convened, and no previous notice, or convening of any General Meeting for the purpose of passing such resolution shall in such case be deemed to have been necessary, whether the business transacted thereat is special or not, and a Member may signify his assent to such resolution in writing under his hand or by telegram or cable, and such resolutions shall be deemed to have been passed on any date therein stated to be the date thereof.
- g. Co-owners may vote by proxy jointly appointed by them, and in the absence of such proxy are entitled to vote on a show of hands; but on any vote ballot each co-owner is entitled to such part of the vote applicable to the Parcel he co-owns as is proportionate to his interest in the Parcel

3.04

In determining the identity or addresses of members the Secretary shall be entitled to rely upon either (or both) title searches and notifications of ownership given to the Board by Members or their representatives.

ARTICLE IV: The Government of the Association

4.01

The Board of Directors

- a. Until the first Annual General Meeting of the Association, the following shall constitute the entire Board:
- i. Ralph Young - Melcor Developments Ltd. - #900, 10310 Jasper Avenue, Edmonton, Alberta, T5J 2W4;
 - ii. Peter Daly - Melcor Developments Ltd. - #900, 10310 Jasper Avenue, Edmonton, Alberta, T5J 2W4;
 - iii. Joe Shocter - Desa Stores Ltd. - #1501, Toronto-Dominion Tower, Edmonton Centre, Edmonton, Alberta, T5J 2Z1;
 - iv. Bill Lutsky - Columbus Investment Corp. Ltd. - #803, 10104 - 103 Avenue, Edmonton, Alberta, T5J 0118;
 - v. Gerry Holmes - Melcor Developments Ltd. - #900, 10310 Jasper Avenue, Edmonton, Alberta, T5J 2W4
- b. Those persons listed in paragraph a. above shall be entitled to continue to be Board

Members as long as the Developers shall continue to be an owner of at least one Subdivided Lot, provided that Melcor shall be at liberty from time to time to select and designate other persons to replace those (or some of those) listed above, and on its so doing the replacement persons shall take the place of those above-named who are so replaced;

c. If an owner of a Subdivided Lot is a corporation, any one officer, director or other designatee of the corporation is eligible to become a member of the Board, except in the case of Melcor, who shall have the right to designate five (5) members to the Board so long as the Developers remain owners of at least one Subdivided Lot, as aforesaid;

d. With the exception of paragraphs a., b. and c. above, each Board member must be a Member (or designatee of a corporate Member) in good standing of the Association at the time of his election and throughout his term of office; and a Board member shall ipso facto cease to be a Board member if he dies, is convicted of an indictable offence or is declared mentally incompetent by a court of law, or if he ceases to be a Member (or designatee of a corporate Member);

e. Board membership shall commence upon election or appointment to the Board and shall expire at the next succeeding Annual General Meeting, unless prior thereto the Board member resigns, becomes disqualified under clause (d) hereof or is removed under clause (f) hereof. Board members may be re-elected, but no member shall sit on the Board for longer than three (3) successive terms of office. The signatories to the application for incorporation are hereby appointed as, and shall form, the first Board of Directors of the Association; and their term of office shall expire on the date of the next Annual General Meeting of the Association (unless, and to the extent that, any are then re-elected);

f. Casual vacancies in the Board may be filled by appointment by the remaining Board members to serve until the next Annual General Meeting; provided that a Board member (other than a Melcor representative) may be removed prior thereto by resolution of the Members of the Association at any Special Meeting of the Members duly called for such purpose;

g. The affairs of the Association shall be managed by the Board consisting of not less than three (3) nor more than seven (7) persons;

h. The Officers shall consist of a President, Vice-President, Secretary and Treasurer, and they shall be appointed by the Board from amongst Board members; and the Board may appoint one person to more than one position, and the Board may also remove any officer from office;

i. The number of Board members shall be five (5) for the initial Board and thereafter the number (not to be less than three nor more than seven) shall be fixed at each Annual General Meeting;

j. The Board, at any Board meeting following the Annual General Meeting of the Association, may appoint not more than two (2) persons to the Board in the event that at the Annual General Meeting of the Association there are an insufficient number of persons elected to the Board;

k. Any member of the Board shall be eligible for re-election to the Board, subject to the limitation set out in Section 4.01 e.;

l. The Board shall, subject to these By-laws and any directions given it by majority vote at any General Meeting properly called and constituted, have full control and

management of the affairs of the Association, and meetings of the Boards may be held as often as may be required, but at least once every twelve months, and shall be called by the President or on the instructions of any two (2) members of the Board provided they request the President in writing to call such meeting, and state the business to be brought before the meeting,

m. Meetings of the Board shall be called by ten (10) days notice in writing and mailed to each member or by three (3) days notice by telephone unless waived by all of the members of the Board;

n. A majority of the members of the Board, personally present, shall constitute a quorum at any meeting of the Board; provided that as long as Melcor is a Member, attendance of at least one (1) of its representatives is necessary for there to be a quorum;

o. Subject to Article 2.01, each member of the Board including the President shall have one (1) vote. In the case of an equality of votes, the President shall not have a second or casting vote and the motion will be deemed defeated;

p. A resolution of the Board in writing signed by all of the members of the Board shall be as effective as a resolution passed at a meeting of the Board duly convened and held.

4.02

Duties and Powers of the Board

a. Except as provided in the Act and otherwise in these By-laws, the powers of the Association shall be exercised by the Board, and without restricting the generality of the foregoing, the duties of the Board shall include the responsibilities set out in Article III 2(a) of Schedule "A" together with the following:

i. To facilitate and promote the objects of the Association;

ii. To create and define categories of Members;

iii. To engage, hire and discharge any employees including administrative employees, in respect to the operation of the Association;

iv. To maintain and properly protect the assets and properties of the Association;

v. To prepare and approve an annual budget consistent with the good management of the Association;

vi. To pay all expenses of and incidental to the operation and management of the Association;

vii. To remunerate or indemnify any persons for services rendered or liabilities incurred in connection with the affairs of the Association;

viii. To maintain all accounting and financial records of the Association;

b. In addition, the Board shall have the following powers;

i. To invest and deal with the monies of the Association not immediately required in such securities and in such manner as from time to time may be determined by the Board;

ii. To Finance the operations of the Association and to borrow, raise or secure the payment of moneys in such manner as the Board may, from time to time, think fit; provided that no borrowing in excess of \$5,000.00 shall be made without prior authorization of the Members in General Meeting, and no debenture shall be wanted unless authorized by Special Resolution;

iii. To appoint legal counsel and auditors from time to time;

iv. To make rules and regulations for the operation of the Association and the use of its facilities and assets;

v. Without in any way abrogating or limiting the general responsibility of the Board, to

delegate its powers and duties to any person engaged as a manager of the Association in accordance with Article 3.2, paragraph 3.2.2 of Schedule "A", and without limitation to retain Melcor as Manager;

vi. To set, levy, issue and collect levies for the Rent Charges provided for in Schedule "A";

vii. To issue certificates as to Member's position with regard to Rent Charges, any such certificate to be signed by at least two members of the Board; and any certificate so issued shall estop the Association and all Members from denying the accuracy of such certificate as against any mortgagee, purchaser or other person dealing with the owner of the Parcel to which the certificate relates (but shall not be an estoppel as against the owner of such Subdivided Lot); and

viii. To place and maintain third party liability insurance in such amounts and on such terms as the Board may from time to time select, insuring the Members and Board members in respect of the actions and omissions of the Association.

ix. (Pending AGM vote on Thursday April 20, 2006.)

To set, levy, and collect levies, over and above the annual per member fee, which levy will be added to the account of any member whose invoice for the annual fees is not paid and is 90+ days in arrears, including:

a) A Late Payment Penalty: The initial value of the Late Payment Penalty is set at \$20.00. This amount will be added to the account of each Member for every six-month period that the invoiced amount remains outstanding; and

b) Any costs - including legal fees, disbursements and other costs - associated with the collection of any outstanding overdue annual fees (and late payment penalties) that have remained unpaid for more than 24 months after the date of invoicing by the Association.

4.03

Board Committees

a. The Board may appoint committees to advise the Board from time to time in respect to the various duties and responsibilities of the Board;

b. Each committee created by the Board shall be headed by one of its members appointed by the President to be Chairman of that committee;

c. Each committee created by the Board shall meet at the call of the Chairman, record minutes of its proceedings, and distribute such minutes to the members of the committee and to the Chairman of all other committees and furnish reports at the request of the President prior to each Board meeting. Unless waived by all of the members of the committee, not less than two (2) days prior notice of the date, place and time of a committee meeting shall be mailed or delivered to each member of the committee;

d. A majority of the members of any committee personally present at a meeting shall constitute a quorum; and

e. Each member of the committee including the Chairman shall have one (1) vote at the meeting of the committee but in case of an equality of votes there shall be no casting vote.

4.04

Officers

a. President: the President shall supervise the affairs of the Association, and be ex-officio a member of all committees. He shall, when present, preside at all meetings of the Association and of the Board. In his absence the Vice-President shall preside at any such

meetings, and in the absence of both a chairman may be elected by the meeting to preside thereat;

b. Vice-President: the Vice-President shall assist the President and preside at meetings in the absence of the President;

c. Secretary: it shall be the duty of the Secretary to attend all meetings of the Association and of the Board, and to keep accurate minutes of the same. He shall have charge of the Seal of the Association. In case of the absence of the Secretary, his duties shall be discharged by such person as may be appointed by the Board. The Secretary shall have charge of all the correspondence of the Association and be under the direction of the President and the Board. The Secretary shall also keep a record of all the Members of the Association and their addresses, send all notices of the various meetings as required, and shall collect and receive the rent charge assessments levied under Schedule "A" hereto or annual dues levied by the Association, such moneys to be promptly turned over to the Treasurer;

d. Treasurer: the Treasurer shall receive all moneys paid to the Association and shall deposit the same in whatever chartered bank, treasury branch or trust company the Board may order. He shall present a full detailed account of receipts and disbursements to the Board whenever requested and shall prepare for submission to the Annual Meeting a statement duly audited as hereinafter set forth of the financial position of the Association;

e. The officers of the Association shall be appointed for a term of one (1) year or until the next Annual General Meeting whichever first occurs; and

f. Any vacancy arising in any office shall, except as otherwise provided herein, be filled by the appointment by the Board of another member of the Board who shall hold such office until the next Annual General Meeting of the Association.

ARTICLE V: Books and Records Auditing

5.01

The books and records of the Association may be inspected by any Member of the Association at the annual meeting provided for herein or at any other time upon giving reasonable notice and arranging a time satisfactory to the officer or officers having charge of the same. Each member of the Board shall at all times have access to such books and records.

5.02

The books, records and financial statements shall be audited by an auditor, if requested by the Board appointed from time to time by the Board. Such auditor may be a Member and need not be a Chartered Accountant; but he shall not be a member of the Board.

ARTICLE VI: Voting

6.01

Any Member shall have the right to vote at any meeting of the Association. The number of votes available to Members is to be determined in accordance with Schedule "A" and these By-laws (Schedule "A" to take precedence in the event of conflict).

ARTICLE VII: Minutes of the Proceedings

7.01

The Secretary shall maintain and have charge of a copy of the Minute Books, the original Minute Books being maintained at the Registered Office of the Association and shall record in the copy or cause to be recorded in the original minutes of all proceedings of all meetings of the Members and of the Board.

7.02

The Board shall see that all necessary books and records of the Association required by the By-laws of the Association are by any applicable statute or laws are regularly and properly kept and filed.

ARTICLE VIII: Seal of the Association

8.01

The Board may, in the name of the Association, adopt a seal which shall be the common seal of the Association and which shall be under the control of the Board and the responsibility for its custody and use from time to time shall be determined by the Board, but in the absence of any specific determination, the Seal shall be preserved by the Secretary who together with the President shall execute and affix the seal of the Association on all contracts of the Association required to be executed under the Seal of the Association.

ARTICLE IX: Remuneration

9.01

Unless authorized at any general meeting and after notice of same shall have been given, no Director, Officer or Member of the Association shall receive any remuneration for services performed in his or her capacity as a Member, Officer or Director. Nothing herein shall derogate from or affect the right of same to receive compensation as manager for the Association or in respect of same's performance of any Association duties or transactions.

ARTICLE X: Indemnity

10.01

Each member of the Board, officer and employee shall be indemnified by the Association against any and all liability and reasonable expenses in connection with or resulting from any claim, action, suit or proceeding in which he may become involved as a party, or otherwise by reason of his having been a Director of the Board, officer or employee of the Association except in relation to matters as to which he shall be adjudged with respect to such claim, action or proceeding to be liable for gross negligence or wilful misconduct in the performance of his duty to the Association.

ARTICLE XI: Bylaws

11.01

The by-laws may be rescinded, altered or added to by a Special Resolution of the Association, at a general or special meeting of which at least twenty-one (21) days written notice specifying the intention to propose the resolution as a Special Resolution has been duly given.

ARTICLE XII: Winding Up

12.01

In the event the Association is wound up or dissolved, any surplus of funds shall be paid to such registered and incorporated charitable organizations as the Members by Special Resolution may from time to time determine. In no event shall the Members or any of them become entitled to any of the assets of the Association.

ARTICLE XIII: Signatories

13.01

The signatories to the Association are hereby ratified and confirmed as subscribers to the incorporation of the Association.

ARTICLE XIV: Notices

14.01

Notices to Members may be given by e-mail to the member's last known e-mail address notified to the Association, or by delivery to, or by prepaid ordinary mail addressed to, the address of the Member's Parcel; and Notices to Board members may be given by e-mail to the Board member's last known e-mail address notified to the Association, or by delivery to, or, by prepaid ordinary mail addressed to the Board member's last known address notified to the Association. Notices to the Association shall be given by personal delivery to a member of the Board.

ARTICLE XV: Bylaw Amendments

4.02 b. ix (January 2006 Amendment to be effective as of AGM vote on Thursday April 20, 2006.)

To set, levy, and collect levies, over and above the annual per member fee, which levy will be added to the account of any member whose invoice for the annual fees is not paid and is 90+ days in arrears, including:

- a) A Late Payment Penalty: The initial value of the Late Payment Penalty is set at \$20.00. This amount will be added to the account of each Member for every six-month period that the invoiced amount remains outstanding; and
- b) Any costs - including legal fees, disbursements and other costs - associated with the collection of any outstanding overdue annual fees (and late payment penalties) that have remained unpaid for more than 24 months after the date of invoicing by the Association.

15.01 Capital Replacement Reserve Fund

a) The Directors shall establish a capital replacement reserve fund (the "Fund") to provide a secure long-term source of funding for major repair or replacement of existing capital assets of the Association, and for the approved seven-year program of staining and painting of street-facing and walkway-facing fences.

b) The monies of the Fund shall be held in a separate bank account from the operating funds of the Association and shall be invested in low-risk interest bearing instruments. Any interest earned will remain in the reserve fund.

c) The reserve fund study will be reviewed and/or updated at least every 5 years. The first review of the Reserve Fund Study will occur in 2007, the original having been completed in February 2002.

d) For purposes of managing the Fund, major repairs and replacement shall be taken to mean those repairs and replacements that would significantly extend the life of a capital asset and that do not normally occur on a regular annual basis. To the extent possible, the Directors shall set out the intended items of major repair and replacement for the next following year in the annual budget of the Association. It is recommended that this take the form of a separate Fund expenditure budget.

- e) The Directors shall set aside and contribute \$15,000 in 2008 and each year up to and including 2012. After making such contribution, if there remains a surplus of operating funds in any given year, the Directors may contribute such surplus monies to the Fund, or they may accumulate the surplus outside the Fund for use with other initiatives of the Association, or the purchase of new capital assets. The deposit to the fund shall occur in January of the year following the collection of the annual dues.
- f) Monies from the Fund shall not be used for the purpose of purchasing new or additional capital assets (as opposed to repairing and replacing existing assets) unless:
- i. The removal of the monies for that purpose is set out in a resolution and approved by a majority vote at a specially convened and properly constituted meeting of members; and,
 - ii. After removal of the monies pursuant to the resolution, the Fund would still contain sufficient funds to meet the objectives described in Paragraph 7.1.1.
- g) This bylaw shall be effective as of January 1, 2004. The amendments of 2008 shall be effective as of January 1, 2008.

Appendix "A"

Restrictive Covenant and Encumbrance Agreement

BETWEEN:

MELCOR DEVELOPMENT LTD., ("Melcor"), DESA STORES LTD. ('Desa') and COLUMBUS INVESTMENTS LTD. ("Columbus") all being corporations incorporated under the laws of the Province of Alberta (hereinafter called the "Developers")

OF THE FIRST PART

- and -

EAGLE RIDGE HOMEOWNERS ASSOCIATION, a society incorporated under the Societies Act of Alberta with registered office at 3200 Manulife Place in the City of Edmonton, in the Province of Alberta (hereinafter called "the Homeowners Association")

OF THE SECOND PART

- (a) The Developers are registered as owner of lands in the City of Edmonton, in the Province of Alberta described in Schedule "A" hereto (each lot on said lands being hereinafter described as a "Subdivided Lot" and all the said lands collectively being hereinafter described as the "Stage One Lands"), as to the said Melcor Developments Ltd. an undivided 29% interest, as to the said Desa Stores Ltd., and undivided 35.5% interest, and as to the said Columbus Investments Ltd., and undivided 35.5% interest;
- (b) The Stage One Lands are part of a planned development in stages of lands that are herein described as the "Eagle Ridge Subdivision"
- (c) The Developers wish to develop on the Stage One Lands a residential development for single-family homes, and multi-family homes or condominiums special aspects of which are to be:
- i. development control;
 - ii. the sharing of maintenance of Subdivision Features by and through the Homeowners Association; and
- (d) The Homeowners Association is (or will be) the holder of leases, easements and other rights in, to and over portions of Subdivided Lots within the Eagle Ridge Subdivision,

including:

- i. easements for Perimeter Fences on all Subdivided Lots on the outside perimeter of the Eagle Ridge Subdivision;
- ii. easements or leases for the following subdivision common elements:
 - a. entrance gateways,
 - b. a feature tower,
- iii. easements and other rights for maintenance of Subdivision Features, and
- iv. such other leases and easements as the Homeowners Association deems appropriate for the overall benefit of the Eagle Ridge Subdivision and its owners;

NOW THEREFORE PARTS HERETO AGREE AS FOLLOWS:

1. DEFINITIONS

IN THIS INSTRUMENT the following items have the following meanings:

1.1 "Approving Authority" means:

1.1.1 Melcor if the Developers shall remain the legal or beneficial owners of any Subdivided Lot within the Stage One Lands, or

1.1.2 If the Developers shall no longer beneficially own any Subdivided Lot within the Stage One Lands, the Homeowners Association.

1.2 'Architectural Guidelines' means the architectural guidelines described in Schedule "C" hereto.

1.3 'Homeowners Association Land Interests' means

1.3.1 the easement held by the Homeowners Association on some of the Subdivided Lots within the Stage One Lands (being those identified in Schedule 'A' as bearing Homeowners Association Land Interests) being an easement in writing registered at the Land Titles Office for the Northern Alberta Land Registration District as instrument No. _; and

1.3.2 that certain lease in writing registered against the Feature Lands at the said Land Titles Office as instrument No. _.

1.4 'Eagle Ridge Subdivision' means the Stage One Lands and such other lands within the lands described in Schedule "B" hereto as may hereafter become part of the subdivision known as Eagle Ridge (the extent and boundaries of which shall be determined by the Homeowners Association).

1.5 'Entrance Gateway' means the stone-work entries and appurtenant landscaping and lighting now or hereafter constructed on a portion of the Feature Lands and any other stone-work entries and appurtenant landscaping and lighting now or hereafter constructed on or & adjacent to any roadway entrance to any part of the Eagle Ridge Subdivision.

1.6 'Feature Lands' means the lands identified in Schedule "A" hereto as bearing Homeowners Association Land Interests.

1.7 'Feature Tower' means the Feature Tower and plaza and appurtenant landscaping and lighting constructed (or hereinafter constructed) on a portion of the Feature Lands.

1.8 'Material Alteration' means:

1.8.1 any addition to a building situate on a Subdivided Lot, or

1.8.2 any change in the materials or colours or textures utilized in the exterior cladding of the building that significantly affect the style or appearance of the building and is inconsistent with the styles or appearances provided for in the Architectural Guidelines,

1.9 'Multi-Family Land Factor' is:

1.9.1 twenty-five (25) if the Multi-Family Land is not subdivided further into single-

- family residential, semi-detached residential lots or condominium units, and
- 1.9.2 the number of Subdivided Lots or condominium units created within the Multi-Family Land if it is so further subdivided or condominiumized
- 1.10 'Multi-Family Land' means Lot 1, Block 80 as more particularly described in Schedule "A" hereto.
- 1.11 'Parcel' means any one of the lots described in Schedule "A" hereto.
- 1.12 'Perimeter Fence' means the perimeter fence constructed or to be constructed along the Rabbit Hill Road and Riverbend Road boundary of the Eagle Ridge Subdivision.
- 1.13 'Public Lands' means public roadways, municipal parks, school sites, environmental reserve and other lands from time to time dedicated to the City of Edmonton for public use.
- 1.14 'Rent Charge Proportion' means:
- 1.14.1 as to all Subdivided Lots, other than the Multi-Family Land, the fraction equal to one (1) divided by the Rent Charge Total, and
- 1.14.2 as to the Multi-Family Land the fraction equal to the Multi-Family Land Factor divided by the Rent Charge Total.
- 1.15 'Rent (large Total)' means the aggregate of:
- 1.15.1 the number of Subdivided Lots excluding the Multi-Family Land from time to time situate within the Eagle Ridge Subdivision, as determined by the Homeowners Association from time to time, plus
- 1.15.2 the Multi-Family Land Factor.
- 1.16 'Subdivided Lot' means any single-family residential lot, semi-detached residential lot or multi-family residential lot.
- 1.17 'Subdivision Features' means the Feature Tower, Entrance Gateway, the Perimeter Fence, and Special Treatments.
- 1.18 'Special Treatments' includes patterned sidewalks, decorative street lamps, landscaped cul de-sac islands, walkways, playgrounds, electrical power and lighting, common area gardens, flower beds and landscaping and other facilities now or hereafter constructed in the Eagle Ridge Subdivision the care or maintenance of which may be undertaken from time to time by the Homeowners Association. [Please note that the maintenance of the walkways -- grass & concrete -- and island landscaping is no longer the Association's responsibility, as this is now being looked after by the City of Edmonton. The fences by the walkways are considered to be each abutting lot owner's responsibility]
- 1.19 'Stage One Lands' means all those lands described in Schedule "A" hereto.
- 1.20 'Term' means the period commencing on the date hereof and expiring on the 99th anniversary of the date hereof.

2. RESTRICTIVE COVENANT

THE DEVELOPERS, as registered owners in fee simple of all of the Stage One Lands, and each of the Subdivided Lots within the Stage One Lands, subject to such liens, encumbrances and interests as are notified by a memorandum underwritten, in consideration of the premises and the mutual covenants herein contained, on its own behalf and on behalf of their respective successors in title to each such Subdivided Lot, do accordingly covenant and agree with themselves as registered owners of each of the remainder of the Subdivided Lots within the Stage One Lands described in Schedule

hereto, and with the Homeowners Association as the bolder of the Homeowners Association Land Interests and with each of their successors in title thereto that:

2.1 The land use and occupancy restrictions hereinafter described as being applicable to the Stage One Lands shall be and be deemed to be covenants running with the Stage One Lands and each Subdivided Lot therein and shall enure to the benefit of all other Subdivided Lots in the Stage One Lands, and may accordingly be enforced in respect of any Subdivided Lot for the benefit of which they have been granted by the owner of such Subdivided Lot and by the Homeowners Association.

2.2 The said covenants and conditions shall not be personally binding upon or entire to the benefit of the Developers or their respective successors and assigns in title except while it or they remain the registered or beneficial owner or owners of any of the Subdivided Lots and then only in respect of such Subdivided Lots as are owned by it or them.

2.3 The restrictions that shall apply to each Subdivided Lot within the Stage One Lands are the following:

2.3.1 No building shall be constructed on any Subdivided Lot unless the plans and specifications therefore shall meet the Architectural Guidelines set out in Schedule "C" hereto and shall first have been approved in writing by the Approving Authority. Further, no Material Alteration shall be made to any building constructed on a Subdivided Lot without prior written approval by the Approving Authority.

2.3.2 The Approving Authority may designate a person, firm or corporation to act as its agent in carrying out its functions as the Approving Authority.

2.3.3 Approval by the Approving Authority may not be obtained unless plans and specifications of the building or the addition or alterations are first provided to the Approving Authority. Nothing in this paragraph 2.3 shall prevent any owner or occupant of a Subdivided Lot from effecting repairs to a building restoring the same to substantially the same state of appearance, design and use applying after its initial construction (or approved alteration).

2.3.4 No outdoor clothes-hanging devices and no outdoor communication or other satellite dishes, or aerials or similar devices shall be placed or kept on any Subdivided Lot without the prior written approval of the Approving Authority.

2.3.5 No recreational vehicles or trailers shall be parked or kept on any Subdivided Lot (unless inside a garage) for more than forty-eight (48) hours, without the prior written approval of the Approving Authority.

2.3.6 No signs or advertising material, other than "for sale" or "for rent" signs not exceeding four square feet in area shall be placed or kept on any Subdivided Lot, without the prior written approval of the Approving Authority.

Notwithstanding the foregoing, the following Architectural Guidelines shall not apply to the Multi-Family Land unless and until it is hereafter re-subdivided into single-family residential lots:

2.3.7 Sections 2.1, 2.2, 2.3 and 2.5, and

2.3.8 All of Article 3.0.

3. THE HOMEOWNERS ASSOCIATION

3.1 Membership and Voting Rights

3.1.1 Every owner in fee simple of a Subdivided Lot within the Eagle Ridge Subdivision shall be entitled to be a member of the Homeowners Association, subject to and bound by the Homeowners Association's Application for Incorporation, By-laws, Rules and Regulations, and this Agreement. Melcor shall be and is entitled to be a member in respect of each Subdivided Lot as to which the Developers are and remain the beneficial owner until such time (in respect of each Subdivided Lot respectively) as the Subdivided Lot is transferred to a purchaser who buys the Subdivided Lot from the Developers. Melcor shall also be entitled to be a member in respect of such of the lands within the Eagle Ridge Subdivision as owned by the Developers and unsubdivided. The foregoing does not include persons or entities who hold a leasehold interest or interest merely as security for the performance of an obligation. Ownership, as defined above, shall be the sole qualification for membership. Desa and Columbus, however, acknowledge that they do not wish to be or become, and they shall not be eligible to be or become, members unless they (or one of them) become both legal and beneficial owner of the entire fee simple interest in one or more Subdivided Lot. When any Subdivided Lot is owned by two or more persons or other legal entity, all such persons or entities shall be members but they shall have voting rights limited as herein set out. An owner of more than one Subdivided Lot shall be entitled to membership in respect of each Subdivided Lot owned by him. Save as provided in paragraph (3.1.3) hereof, membership shall be appurtenant to and may not be separated from ownership of any Subdivided Lot, and entitlement to it shall be automatically transferable by conveyance or other transfer of that Subdivided Lot. Anyone who ceases to be an owner of a Subdivided Lot shall ipso facto cease to be a member. This provision shall not apply to Melcor who shall also be a member so long as the Developers legally or beneficially own one or more Subdivided Lots or unsubdivided lands within Eagle Ridge Subdivision.

3.1.2 The Homeowners Association shall have three classes of voting membership, Class A, Class B and Class C. All votes shall be cast in the inner provided in the By-laws. When more than one person or entity holds an interest in any Subdivided Lot, the vote for such Subdivided Lot shall be exercised (as between them) as provided for in the By-laws; but in no event shall more than the number of votes hereinafter designated be cast with respect to any such Subdivided Lot. The three classes of voting memberships, and voting rights related thereto, are as follows:

3.1.2.1 Class A. Class A members shall be:

3.1.2.1.1 the subscribers to the Homeowners Association's incorporation and charter documents (and substitutions therefor made by Melcor) ; and

3.1.2.1.2 all owners other than Melcor of Subdivided Lots, excluding the Multi-family Land as long as it is not subdivided or condominiumized.; and

3.1.2.1.3 if the Multi-Family Land is subdivided into single-family residential lots or semi-detached residential lots or shall be the subject of a registered condominium plan, all owners (other than Melcor) of such residential lots or condominium units.

Class A owners shall be entitled to one (1) vote for each subscriber and one (1) vote for each Subdivided Lot owned;

3.1.2.2 Class B. The Owners of the Multi-Family Land shall be the only Class B members. As long as the Developers own the Multi-Family Land, Melcor shall be the Class B member. Such Class B members shall, for as long as the Multi-Family Land remains unsubdivided and not the subject of a condominium plan, be entitled to twenty-

five (25) votes in respect of the Multi-family Land. If the Multi-family Land shall be subdivided into single-family residential lots, semi-detached residential lots or shall be the subject of a registered condominium plan, then there shall be no Class B members, but the said residential lot owners or condominium unit owners (as the case may be) shall be entitled to be Class A members (or Class C members as to Melcor relative to the lots owned by the Developers).

3.1.2.3 Class C. Melcor shall be the only Class C member. Class C members (Melcor) shall have Fifty (50) votes for each Subdivided Lot (excluding the Multi-Family Land) which the Developers own legally or beneficially and fifty (50) votes for that portion (if any) of the Eagle Ridge Subdivision that remains unsubdivided and owned by the Developers.

3.1.3 Notwithstanding the foregoing, the subscribers to the Homeowners Association's incorporation and charter documents are entitled to be and shall be members, whether or not they shall own any Subdivided Lots, until such time as the Developers shall have subdivided and sold and transferred at least one hundred (100) Subdivided Lots in the Eagle Ridge Subdivision. Further, Melcor may select and designate and retain as members substitutions for such subscribers (who may be officers, directors or employees of Melcor) who shall be eligible to be members even though they do not own any Subdivided Lots. Such persons who are members pursuant to this clause (3.1.3) shall each and all be entitled to continue to be members until the Developers shall have sold and transferred to purchasers at least one hundred (100) Subdivided Lots. They shall automatically cease to be members after the Developer's transfer of the one hundredth (100th) Subdivided Lot. They shall, notwithstanding their ceasing to be members, nonetheless be entitled to serve as members of the Board of Directors and/or officers of the Homeowners Association until the Developers no longer own any land in the Eagle Ridge Subdivision. After the transfer of one hundred (100) Subdivided Lots by the Developers as aforesaid, the said five (5) members shall not have any power to vote in their own right; but any one (or some or all of them) may act as proxies for and cast votes for the Developers.

3.2 Rights and Obligations of the Homeowners Association

3.2.1 Responsibilities. The Homeowners Association, subject to the rights of the Owners set forth in this Article 3.2, shall be responsible for the management and control of all Subdivision Features, and shall keep the same in good, clean and proper condition, order and repair.

3.2.2 Manager. The Homeowners Association may obtain, employ and pay for the services of any entity or person (hereinafter called the "Manager") to assist in managing its affairs and carrying out its rights and obligations hereunder to the extent it deems advisable, as well as such other personnel as the Homeowners Association shall determine to be necessary or desirable, whether such personnel are furnished or employed directly by the Homeowners Association or by the Manager. Without limitation, the Homeowners Association may contract with or employ Melcor or an associated company to perform and exercise (and in the Homeowners Association so contracting Melcor and the representatives it elects under paragraph 3.1.3 hereof shall be free to exercise Melcor's voting right in the Homeowners Association) its rights and obligations or to act as Manager for any period not extending past December 31, 1995. Any management agreement must be terminable for cause upon thirty (30) days notice,

be for a term not to exceed one year, and be renewable only upon mutual consent of the parties.

3.2.3 Implied Rights. The Homeowners Association may exercise other rights or privileges given to it expressly by this Agreement, its Articles or By-laws, or by law, and every other right or privilege reasonably necessary to effectuate the exercise of any right or privileges granted herein or therein.

4. COVENANT FOR MAINTENANCE ASSESSMENTS

4.1 There shall be payable to the Homeowners Association from time to time, as assessed and levied by the Homeowners Association from time to time, by the registered owner in fee simple of each Subdivided Lot, a sum equal to such Subdivided Lot's Rent Charge Proportion of the Homeowners Association's Costs, as and by way of a Rent Charge. If the Multi-Family Land is hereafter subdivided into Subdivided Lots or condominium units, from and after the registration of the plan for such subdivision or condominium, the Rent Charge Proportion applicable to the Multi-Family Land shall be apportioned equally between the resulting Subdivided Lots or condominium units (as the case may be) and the Rent Charge Proportion applicable to the Multi-Family Land will thereafter be limited as against each Subdivided Lot or condominium unit to the said apportioned extent. For purposes hereof "condominium unit" includes the applicable common property interest apportioned to the unit.

4.2 The Developers hereby, as registered owner in fee simple of each of the Subdivided Lots within the Stage One Lands (as described in Schedule "A" hereto), subject to such liens, encumbrances and interests as are endorsed hereon, grants to the Homeowners Association a Rent Charge as against and in respect of each Subdivided Lot, equal to the following

4.2.1 as to each Subdivided Lot excluding the Multi-Family Land (and also as against and in respect of each residential lot or condominium unit resulting from subdivision or condominiumization of the Multi-Family Land) the lesser of

4.2.1.1 \$480.00 per annum during the Term or such other amount as is determined by Special Resolution pursuant to paragraph 4.3; or

4.2.1.2 the Rent Charge Proportion of the Homeowners Association's Costs from time to time during the Term hereof determined as herein provided for, and

4.2.2 and as to the Multi-Family Land (unless subdivided or condominiumized as aforesaid) the lesser of:

4.2.2.1 \$12,000.00 per annum during the Term or such other amount as is determined by Special Resolution pursuant to paragraph 4.3; or

4.2.2.2 the Rent Charge Proportion of the Homeowners Association's Costs from time to time during the Term hereof determined as herein provided for;

and encumbers, mortgages and charges each Subdivided Lot as security for payment of the Rent Charge applicable to each such Subdivided Lot (respectively).

4.3 "Homeowners Association's Costs" for any period shall mean any and all costs incurred or to be incurred in such period (including without limitation reasonable reserves for future maintenance, repair and replacement costs) by the Homeowners Association in and in respect of carrying out and exercising its rights, duties and obligations hereunder, as determined by the Board of Directors of the Homeowners Association from time to time. Notwithstanding the foregoing, and notwithstanding Paragraph 4.2 hereof; the

Homeowners Association's costs for any Subdivided Lot except the Multi-Family Land (unless the latter is subdivided or condominiumized as aforesaid) shall not exceed four hundred, and eighty(480.00) dollars per annum (and as to the Multi-Family Land shall not exceed \$12,000.00 per annum) unless authorized by Special Resolution of the Homeowners Association whereby a minimum of seventy-five (75%) percent of all of the members of the Homeowners Association approve the change.

4.4 The registered fee simple Owner from time to time of each Subdivided Lot (or condominium unit, if any) shall pay the Rent Charge applicable to his Subdivided Lot as and whenever required by the Homeowners Association. The Board of Directors of the Homeowners Association shall from time to time estimate the Homeowners Association's Costs (including without limitation reserves for maintenance, repair and replacement costs) for such period as it deems convenient to its administration and shall notify each Owner of the amount of such estimate and the Owner's share thereof (that is, his Rent Charge) by notice in writing delivered to or on, or mailed by ordinary mail to the address of any dwelling situate on, each Subdivided Lot. Each such estimate shall state an annual payment amount for the Rent Charge payable for the period such as will (if paid) pay the full amount of such estimate within the period. The Rent Charge for each Subdivided Lot (or condominium unit, if any) shall be the sum so notified by the Homeowners Association as applicable to the Subdivided Lot and the annual payment shall be due and payable on the 1st day of March during each year that falls within the period.

4.5 The Rent Charge shall be and is hereby made an encumbrance upon each respective Subdivided Lot (and condominium unit, if any) and the Homeowners Association shall have and be entitled to enforce such Rent Charge against each (respective) Subdivided Lot (and condominium unit, if any) in the same manner as provided for an Encumbrance under the Land Titles Act of Alberta.

4.6 The said Rent Charge shall run with and bind the title to each respective Subdivided Lot (and condominium unit, if any).

4.7 Notwithstanding anything herein contained no Rent Charge shall be levied, assessed or payable for any period prior to December 31, 1993; and the Developers shall provide all duties and functions of the Homeowners Association at the Developers' sole cost and expense to such date. The Developers shall, as shall all Owners, be subject to all Rent Charges levied on Subdivided Lots owned by them (respectively) from and after December 31, 1993.

4.8 The Board of Directors of the Homeowners Association shall (subject to the limitation stated in paragraph 4.3 hereof) be the sole determiner of the Homeowners Association's Costs, the Rent Charge Proportion and the amount of the Rent Charges from time to time; and a certificate stating the same and signed by two or more Directors of the Homeowners Association, or signed by an officer of Melcor if Melcor is then a member of the Homeowners Association, shall be conclusive and binding on all Owners within the Eagle Ridge Subdivision (including without limitation the owners of the Subdivided Lots in the Stage One Lands). The Board of Directors of the Homeowners Association shall, for and on behalf of the Homeowners Association, determine the Subdivided Lots (and condominium units, if any) in addition to the Stage One Lands that fall within the Eagle Ridge Subdivision from time to time; and the foregoing certificate provisions shall apply as such determination.

4.9 Without limiting the foregoing, the Homeowners Association hereby confirms that

the Rent Charge for each Subdivided Lot (except the Multi-Family Land) for the period coinciding January 1, 1994, has been set at the sum of one hundred and twenty (\$120.00) dollars per annum per Subdivided Lot and for the Multi-Family Land has been set at the sum of \$3,000.00 per annum and such Rent Charge shall be payable by annual payment on the 1st day of March in each year from and including March 1, 1994. If the Homeowners Association or its Board of Directors fails or omits to determine or notify Owners of the Rent Charge for any portion of the Term hereof after December 31, 1994, or if the Rent Charge for any portion of the Term shall otherwise not be ascertained or ascertained then the Rent Charge for such portion of the Term shall be and be deemed to be one hundred and twenty (\$120.00) dollars per annum for Subdivided Lots other than the Multi-Family Land and to be \$3,000.00 per annum for the Multi-Family Land; provided that if the Multi-Family Land is subdivided or condominiumized, the Rent Charge applicable to each residential lot or condominium unit resulting therefrom shall be \$120.00 per annum

4.10 Any Rent Charge not paid when due shall bear interest (and the Owner of the Subdivided Lot (or condominium unit, if any) in default shall pay interest on the Rent Charge in default) at the rate of SIXTEEN (16%) per cent per annum calculated monthly, not in advance, from the date due until paid; and such interest shall be and is hereby a charge upon the said Subdivided Lot (or condominium unit, if any).

4.11 The Homeowners Association shall be at liberty, in its sole discretion, to postpone the Rent Charge and Encumbrance herein provided for, in respect of any Subdivided Lot, to a registered first mortgage of such Subdivided Lot.

5. TERM

5.1 This Agreement and the rights, licenses, interests, privileges and charges hereby granted shall be for a term of ninety-nine (99) years commencing on the date hereof and expiring on the ninety-ninth (99th) anniversary of such date.

6. MISCELLANEOUS

6.1 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

6.2 If any part of this Agreement shall be void, unlawful or unenforceable for any reason whatsoever, such part shall be severable from this agreement without affecting or derogating from the validity and enforceability of the remainder hereof.

IN WITNESS WHEREOF the parties have each hereunto affixed its respective seal as witnessed by the hands of its proper officers duly authorized in that behalf as of the day and year first above written.

MELCOR DEVELOPMENTS LTD.

DESA STORES LTD.

COLUMBUS INVESTMENTS LTD.

EAGLE RIDGE HOMEOWNERS ASSOCIATION